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R E P O R T E R ' S R E C O R D  
VOLUME 15 of 19

TRIAL COURT CAUSE NO. 48,950-D

THE STATE OF TEXAS ) IN THE 320TH DISTRICT COURT  
)  
)  
VS. ) IN AND FOR  
)  
)  
TRAVIS TREVINO RUNNELS ) POTTER COUNTY, TEXAS

\*\*\*\*\*

TRIAL ON THE MERITS

OCTOBER 26, 2005

\*\*\*\*\*

**FILED IN**  
**COURT OF CRIMINAL APPEALS**

MAY 02 2005

**Louise Pearson, Clerk**

On the 26th day of October, 2005, the following  
proceedings came on to be heard in the above-entitled and  
numbered cause before the Honorable Don Emerson, Judge  
Presiding, held in Amarillo, Potter County, Texas:

Proceedings reported by Machine Shorthand.

**ORIGINAL**

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PROCEEDINGS

OCTOBER 26, 2005

(Open court, defendant present, no jury)

MR. OWEN: Before we proceed, in the interest

of time, the State moves to -- for trial amendment to correct an error of nomenclature in the indictment. The prison system is referred to as the Texas Department of Corrections, Institutional Division, and we would ask that it be amended to refer to it as the Texas Department of Criminal Justice, Institutional Division.

MR. DURHAM: A trial amendment after we pick the jury, three years after the alleged crime, two years after the indictment? We cannot agree on that, Your Honor. We move that they proceed to trial on the indictment that was returned.

MR. OWEN: That's fine, Your Honor. We were just trying to save some time in the presentation.

THE COURT: Well, maybe saving time would have been easier if we had indicted it to begin with.

Okay. Bring the jury in.

(Jury enters the courtroom)

THE COURT: Well, we are all finally here together. Thank you for being with us. The first thing I need to do this morning is swear you in as jurors. If you'll each please raise your right hands.

1 lawyers can discuss some things with me. If that occurs and  
2 it looks like it's going to be a little while, I'll --  
3 certainly, Gary will tell you and you can separate and that  
4 will just be an additional break for you.

5 But we -- I guess what I'm really trying to say  
6 is, we're not going to be dawdling around, okay? We'll get  
7 you in and out of here just as quickly as we can. That's  
8 something we sort of take pride in trying to do.

9 Okay. The first thing we will do this morning  
10 is I will have the indictment read. Following that, the  
11 completion of the indictment being read, we will take the  
12 defendant's formal plea to the charge contained in the  
13 indictment. After that, I'll swear as many of the jurors  
14 (sic) who are here in the hallway and present at this time as  
15 a group so I won't have to do it individually.

16 MR. DURHAM: Pardon me. You mean the  
17 witnesses?

18 THE COURT: What did I say?

19 MR. DURHAM: The jurors.

20 THE COURT: No, I just swore them.

21 MR. DURHAM: I thought you did. I was  
22 wondering if we were going to have a shadow jury or something.

23 THE COURT: Okay. Well, as long as Mr. Durham  
24 is here, he's going to keep me on my toes with the words that  
25 I use. The witnesses is who I'll swear as a group, and that

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(Jury panel sworn)

THE COURT: Okay. You have some instructions there. Those are your rules of the road to operate by during the trial of this case. There's -- you know, one copy is laminated. Obviously, you can't fold that up. But there's another copy that you can certainly fold up and keep with you.

The important thing about these badges you have is that I need you to keep those on at all times that you're in the courthouse. No one would intentionally say anything in your presence about this case if they knew you were a juror, but if they -- if you don't have a badge on, they might not know. We all ride up in the same two elevators together, except those of us who choose to walk up the stairs. I don't know any of those folks, but I think there are some that do that, but the rest of us ride the elevator. So if you'll keep those on, I would certainly appreciate it.

As I told you at various times while we were selecting the jury in this case, we will work from about nine o'clock each day until about five o'clock. We'll take an hour and 15 minutes or so for lunch each day. We will try to take only one major break during the morning and one during the afternoon, and we'll just move through this case as quickly and expeditiously as we possibly can.

There may be things that come up and I may need to remove you from the courtroom for other reasons so that the

1 way we don't have to do it individually.

2 After that, then, I will remove all the  
3 witnesses who were sworn from the courtroom and have them wait  
4 in the hallway or elsewhere in the building.

5 The attorneys will have an opportunity to make  
6 opening argument to you. Opening argument is not -- actually,  
7 I should call it opening statement. It's not intended to be  
8 argument in the case, it's more intended to be an outline of  
9 how the presentation of the evidence will go; how the  
10 witnesses will come forth to testify, perhaps by name, but an  
11 explanation will be given whether they're going to proceed  
12 kind of chronologically or whether things will be a little bit  
13 mixed up and out of order so that you can better understand  
14 the nature of how the case will progress.

15 Neither side is under an obligation to make an  
16 opening statement, but they normally do. The State normally  
17 makes an opening statement first because the burden of proof  
18 is always on them, as we discussed.

19 The defendant may choose to make an opening  
20 statement or may choose to wait until the State has concluded  
21 its presentation of evidence and then make an opening  
22 statement. That's completely up to them and I haven't asked  
23 and they haven't told me as to what they intend to do about  
24 that. That's the next thing that will happen, if it does.

25 After that, we'll begin the presentation of the

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1 evidence. We'll just start going through the witnesses one by  
2 one and see where we go.  
3 Okay. All right. Mr. Runnels, if you would  
4 please stand for the indictment to be read.  
5 Mr. Sims, if you would read the indictment,  
6 please.  
7 MR. SIMS: "In the name and by the Authority of  
8 the State of Texas:  
9 "The Grand Jurors for Potter County, Texas,  
10 duly organized and sworn as such at the January Term A.D.,  
11 2004 of the District Court of the 251st Judicial District, in  
12 and for Potter County, Texas, upon their oaths in that Court  
13 at that term, present that Travis Trevino Runnels, on or about  
14 the 29th day of January, 2003 and before the presentment of  
15 this indictment, in Potter County, Texas, did then and there  
16 intentionally or knowingly cause the death of an individual,  
17 namely, Stanley Allen Wiley, by cutting Stanley Allen Wiley  
18 with a knife, and the defendant was then and there  
19 incarcerated in a penal institution, to-wit: the William P.  
20 Clements Unit of the Texas Department of Corrections,  
21 Institutional Division, and the said Stanley Allen Wiley was  
22 then and there employed in the operation of said penal  
23 institution.  
24 "Against the peace and dignity of the State."  
25 It is signed by the foreperson of the grand

1 THE COURT: That instruction will preclude them  
2 from even having the opportunity to consider whether the State  
3 has met its burden of proof. Your plea of guilty in this  
4 case -- and this doesn't differ from any other criminal  
5 case -- will be all the evidence that's necessary to support a  
6 finding of guilt. Do you understand that?  
7 MR. RUNNELS: Yes, sir.  
8 THE COURT: Even though that's true, the State  
9 no doubt will put on much of the same evidence that it would  
10 have anyway in order to give the jury an idea of what this  
11 case is all about. Do you understand that?  
12 MR. RUNNELS: Yes, sir.  
13 THE COURT: But there will not be an issue of  
14 your guilt or innocence. Do you understand that?  
15 MR. RUNNELS: Yes, sir.  
16 THE COURT: You understand that you still  
17 maintain all the rights and privileges that you enjoy under  
18 the constitution and laws of the State of Texas and of the  
19 United States, but the -- with regard to the jury being able  
20 to consider guilt/innocence stage of this trial, that will not  
21 be one of them?  
22 You still have the right against self-  
23 incrimination, you know. You're not going to have to testify  
24 in this case. And I only tell you that because there have  
25 been cases in the past where people have said, "Well, my

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1 jury.  
2 THE COURT: Mr. Runnels, how do you plead,  
3 guilty or not guilty?  
4 MR. RUNNELS: I plead guilty, Your Honor.  
5 THE COURT: Members of the jury, I will need  
6 you to step into the jury room, please, at this time. I'll  
7 get you back out here shortly.  
8 (Jury left the courtroom)  
9 THE COURT: Mr. Runnels, you have entered a  
10 plea of guilty to the offense charged in the indictment before  
11 this jury. Several things come into play at this point that I  
12 need to visit with you about.  
13 First of all, because this is a case in which  
14 the State has indicated it's -- that it's seeking the death  
15 penalty, it's not a situation where any jury trial can ever be  
16 waived. You understand that?  
17 MR. RUNNELS: Yes, sir.  
18 THE COURT: And that's why the jury is here.  
19 However, your -- your plea of guilty before the jury, you need  
20 to understand, sir, that if you persist in that plea and I  
21 find that that plea is -- is voluntary and that you have done  
22 it with full knowledge of the results of your plea of guilty,  
23 I'll instruct the jury to return in accordance with your plea  
24 a finding of guilt. Do you understand that?  
25 MR. RUNNELS: Yes, sir.

1 entering a plea of guilty to the jury is really, in effect,  
2 testifying, and nobody told me that I didn't have to do that."  
3 And our court of criminal appeals has said,  
4 "No, that's not the case," but -- under Texas law and the  
5 United States constitutional law, but I'm telling you that  
6 just to give you a heads up on that. All right?  
7 And you're still going to be able to, you know,  
8 call witnesses of your own, cross-examine witnesses, have all  
9 the witnesses testify in front of you.  
10 Nothing is going to change in this trial with  
11 regard to all of your rights other than the ability of the  
12 jury to require the State -- and your ability to require the  
13 State to prove their case beyond a reasonable doubt with  
14 regard to your guilt or innocence. Do you understand what  
15 I've told you?  
16 MR. RUNNELS: Yes, sir.  
17 THE COURT: Knowing that your plea of guilty,  
18 if I receive that, is going to result in you being found  
19 guilty of this case, and knowing that the State is seeking the  
20 death penalty in this case, do you really want to do this?  
21 MR. RUNNELS: Yes, sir.  
22 THE COURT: Okay. The State is still going to,  
23 as you've heard us discuss time and time again for days, they  
24 have the burden of proof with regard to the first special  
25 issue, and there will still be evidence entertained with

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1 regard to the second special issue, that being the mitigation  
2 issue. You understand that?

3 MR. RUNNELS: Yes, sir.

4 THE COURT: So the only thing that's going to  
5 change is that I will have to tell this jury that they must  
6 return a finding of guilt if you persist in this plea. Is  
7 that what you want to do? Do you want to persist in it?

8 MR. RUNNELS: Yes, sir.

9 THE COURT: Okay.

10 MR. DURHAM: Your Honor, I have a document I  
11 wish to file for the Court. I'll provide a copy, unsigned  
12 copy, but a copy to the district attorney.

13 THE COURT: Okay. Mr. Runnels, this affidavit  
14 that I've been handed says that you, having discussed the  
15 strategic and tactical aspects of a plea of guilty in this  
16 case, freely and voluntarily decided to enter this plea of  
17 guilty, and you have signed that.

18 Is that what you fully intended to do?

19 MR. RUNNELS: Yes, sir.

20 THE COURT: All right. I will file that, then,  
21 among the papers of this cause.

22 Okay. Bring the jury in.

23 (Jury returned to the courtroom)

24 THE COURT: Members of the jury, the defendant  
25 has entered his plea of guilty to the charge contained in the

1 will invoke the Rule. Our witnesses are under subpoena for  
2 the 31st, and they will be instructed as to the Rule.

3 THE COURT: Okay. Thank you, sir.

4 Does the State wish to make an opening  
5 statement?

6 MR. SIMS: Your Honor, could we approach a  
7 moment?

8 THE COURT: Sure.

9 (At the bench, off the record)

10 THE COURT: Okay, folks, we're going to take a  
11 15-minute recess. I know you're sitting there thinking, "He  
12 tells us he moves these cases quickly and we just don't  
13 believe it." We'll get rolling here one of these days.

14 Okay. And feel free to step outside in the  
15 hallway, whatever you care to do.

16 Okay. We're in recess.

17 (Jury left the courtroom)

18 MR. SIMS: I wanted to make sure we're on the  
19 same page about -- procedurally about what we thought was

20 going to happen, which I think we're going to put on some  
21 evidence, probably significantly less than what we would have,

22 you're going to wind up charging the jury, then we'll come

23 back and then do the punishment phase issues separate?

24 THE COURT: Well, I anticipated that it would  
25 be a unified procedure just like --

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1 indictment before you. I have talked with him and he persists  
2 in his plea of guilty. I have found that that plea is freely  
3 and voluntarily entered into, and because of that, at the  
4 conclusion of this case, I will instruct you to return a  
5 finding of guilty of the charges contained in the indictment  
6 in this case.

7 That does not preclude anything about the  
8 presentation of the evidence. The State will still call  
9 witnesses, as will the defense, with regard to other factors  
10 in this case. Then both sides are interested in you having a  
11 full and complete opportunity to know everything that you can  
12 about this case in order to make an intelligent decision with  
13 regard to those special issues that we discussed that will  
14 still be put to you.

15 Okay. Do you have any witnesses here that are  
16 to be sworn?

17 (Pause)

18 THE COURT: Okay. If you folks who intend to  
19 testify this morning will please raise your right hands.

20 (Witnesses sworn)

21 THE COURT: Okay. If you would step back  
22 outside, please, we'll call you in when we need you. Do not  
23 discuss anything about the case among yourselves or with  
24 others.

25 MR. DURHAM: Your Honor, for the record, we

1 MR. SIMS: Okay.

2 THE COURT: I mean, I don't see any reason not  
3 to send them out with one charge at this point instructing  
4 them to return a finding of guilty based upon that, and then  
5 to answer the questions --

6 MR. SIMS: Okay.

7 THE COURT: -- that are asked.

8 MR. DURHAM: I thought that -- well, I thought  
9 they would go out and find -- a charge to find guilt, and then  
10 come back and proceed on the punishment and two different  
11 charges, because to do it in one charge, you are, in effect,  
12 instructing them to find him guilty, which is entirely proper,  
13 but it's at the same time that they have to make certain other  
14 findings that is the State's burden, and I believe that --  
15 it's our position, procedurally it would be proper for the  
16 jury at this time to be sent out to return the verdict of  
17 guilty and then proceed on punishment.

18 THE COURT: Well --

19 MR. DURHAM: It would be a little more  
20 cumbersome, but we believe it's more protection for the  
21 defendant in terms of making sure that the burden is squarely  
22 on the State rather than going in with a ringing endorsement  
23 of the State by instruction to find the defendant guilty,  
24 followed by questions --

25 THE COURT: Well, the ringing endorsement of

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1 the State is driven by the defendant's plea --  
2 MR. DURHAM: Oh, I understand that.  
3 THE COURT: -- of guilty.  
4 MR. DURHAM: I understand. I'm not complaining  
5 about the ringing endorsement, I just would like the ringing  
6 to stop before they consider punishment.  
7 THE COURT: Well, whichever way it is, I'm  
8 still, when I send them out -- if I do that in separate  
9 charges, I'm still going to tell them again --  
10 MR. DURHAM: I understand that.  
11 THE COURT: -- in the punishment charge, "You,  
12 having found the defendant guilty of the offense of capital  
13 murder, must now assess his punishment."  
14 MR. DURHAM: I understand that.  
15 THE COURT: "You do so by" blah, blah, blah.  
16 MR. DURHAM: I understand that.  
17 THE COURT: And I assume that no charge has  
18 been prepared and not laying on your desk to instruct them to  
19 return a verdict of guilty?  
20 MR. OWEN: No, Your Honor.  
21 THE COURT: And the jury -- do you have any  
22 basis for me doing that other than just a gnawing feeling?  
23 MR. DURHAM: Just -- just the feeling within my  
24 innards, also know as gut feeling, yeah, uh-huh.  
25 THE COURT: Okay. How about you, Ms. Hamilton?

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1 MS. HAMILTON: The only other case I've had  
2 this way, and it wasn't a death penalty case, was that they  
3 did put on a little bit of evidence and then they did send the  
4 jury out and instructed them to come back with guilt, and then  
5 we went on into punishment. We did it that way.  
6 MR. SIMS: It doesn't matter to me. I just  
7 want to make sure we're all on the same page.  
8 THE COURT: For 20-odd years, I have done it as  
9 a unified procedure. Maybe I've been wrong all this time,  
10 but --  
11 MR. DURHAM: I just think that -- I perceive it  
12 to be prejudicial to the defendant to make it a unified  
13 procedure, and it's my obligation to try to prevent that  
14 prejudice, so I'm requesting the Court to send the jury out  
15 for a verdict and then start on punishment.  
16 THE COURT: Do you want me to handwrite one  
17 here on a yellow pad and send them out with it?  
18 MR. DURHAM: I don't expect the Court to do the  
19 State's work.  
20 THE COURT: I can do that. It would be very  
21 short and sweet. Wouldn't be a lot of repeated things in it.  
22 I think what we will do is -- you have somebody  
23 begin to prepare that, please, sir --  
24 MR. SIMS: Yes, sir.  
25 THE COURT: -- and we'll begin to take some

1 testimony, and then at some point --  
2 MR. DURHAM: Why is testimony necessary?  
3 THE COURT: Because the State has got the right  
4 to present testimony.  
5 MR. DURHAM: He's pled guilty.  
6 THE COURT: Doesn't make any difference. The  
7 State has the right to present testimony with regard to the  
8 entire thing.  
9 MR. DURHAM: Okay. So it's going -- you're  
10 going to allow repetitious testimony?  
11 THE COURT: Well, yeah, I guess that's one way  
12 of putting it. I mean, I think that's what the -- that's what  
13 the court of criminal appeals has told us that the State has  
14 the right to do.  
15 MR. DURHAM: I understand that.  
16 THE COURT: That's one of the things that the  
17 jury will be instructed in making the decision in regard to  
18 these two questions, is all the evidence surrounding the  
19 crime. Right? Isn't that part of the --  
20 MR. DURHAM: Well, I understand that's what the  
21 Court has done in terms where there was a plea of not guilty  
22 and the State proved their case and then the evidence was re-  
23 tendered either through a motion to reconsider or to recall  
24 the same witnesses. But when we have a plea of guilty, I  
25 think that that would be just like calling -- that would be

1 calling the same witness twice on the same issue.  
2 THE COURT: Well, that's what we'll do, then.  
3 Now, given that, do you still want two separate  
4 charges?  
5 MR. DURHAM: No.  
6 THE COURT: Do you want to let it in anyway?  
7 MR. DURHAM: No, I don't think so. What you're  
8 proposing makes it even more prejudicial, so I'm forced to  
9 withdraw my request.  
10 THE COURT: Okay. All right.  
11 MR. SIMS: So we're just going to do one  
12 unified charge at the end, then, or --  
13 THE COURT: Apparently so, yes, sir.  
14 We're going to begin -- if somebody changes  
15 their mind, that's fine. We're going to begin presenting  
16 evidence.  
17 MR. SIMS: Okay. We're ready to do that. We  
18 just wanted to try to line up some witnesses because we  
19 weren't planning some until next week. Those that were from  
20 out of town, we weren't planning on getting them until next  
21 week, and we'll get them in here sooner because we'll just --  
22 THE COURT: Oh, okay. But you do --  
23 MR. SIMS: There's about ten witnesses we won't  
24 call.  
25 THE COURT: You've got somebody here --



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1 MR. SIMS: Oh, yes, we're ready to go.  
2 THE COURT: -- ready to put on?  
3 MR. SIMS: Yes, sir, we're ready to go.  
4 THE COURT: Okay, okay.  
5 MR. SIMS: We've got at least seven or eight  
6 that are ready to go.  
7 THE COURT: Bring the jury in, please.  
8 MR. DURHAM: You will explain to the jury about  
9 the unified charge?  
10 THE COURT: Yeah.  
11 MR. DURHAM: Before we start --  
12 THE COURT: I think I really already did. I  
13 said -- I said, "I'm going to tell you in the Court's charge  
14 that you are to return a verdict of guilty, and then you will  
15 go on to consider those two questions."  
16 MR. DURHAM: Well, see, my problem is that was  
17 really not clear to me. I really thought that they would go  
18 out and return a verdict. I'm not sure it's clear to them.  
19 THE COURT: Okay.  
20 MR. DURHAM: And I'm going to make a request  
21 that you restate it where they -- where I understand it and  
22 hopefully they will.  
23 THE COURT: Okay. All right.  
24 (Jury entered the courtroom)  
25 THE COURT: Okay. Members of the jury, at

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1 the -- with the possibility that my words have been confusing  
2 at different times this morning, I've decided to tell you --  
3 explain a little more in depth.  
4 You know, we spent the entire jury selection  
5 process talking to you about the bifurcated system we have in  
6 Texas law; that the first portion of the trial has to do with  
7 the guilt/innocence stage of the trial. The testimony is  
8 presented with regard to that. The jury then takes a charge  
9 that I read to you back to the jury room and you consider that  
10 charge and consider your verdict and determine whether the  
11 State has met its burden to your satisfaction. And if it has,  
12 then you return a verdict of guilty.  
13 At that point, then, the second phase of the  
14 trial, the punishment phase begins. The -- what we're doing  
15 here today, however, with the plea of guilty by the defendant,  
16 will result in only one charge being presented to you, and you  
17 will do two things in that charge.  
18 As a matter of fact, that charge will sort of  
19 tell you to begin with that because the defendant has pleaded  
20 guilty and I have accepted his plea of guilty, that you are  
21 instructed to return a finding of guilty.  
22 Then if we were to jump to the back of the  
23 different charges that you'll receive, they will talk again  
24 about -- I mean, the jury will make a decision there in  
25 accordance -- one of the things that you will make a decision

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1 with will be in accordance with my instruction.  
2 So I'll tell you to find him guilty and then  
3 you'll find him guilty. Does everyone understand that? And  
4 then you will proceed to answer the questions that we  
5 discussed at great length.  
6 Okay. State wish to make an opening statement?  
7 MR. SIMS: A very brief one, Your Honor.  
8 THE COURT: Go ahead.  
9 STATE'S OPENING STATEMENT  
10 MR. SIMS: May it please the Court, Mr. Durham.  
11 Good morning, ladies and gentlemen.  
12 JURY PANEL: Good morning.  
13 MR. SIMS: The guilty plea in regards to this  
14 particular case is going to shorten the State's witness list  
15 by quite a bit. At this point, I would anticipate we're going  
16 to probably call about ten to 12 witnesses in regards to the  
17 matters and incidents that occurred on January 29th, 2003, to  
18 establish that it occurred at the prison, that the defendant  
19 was involved in this particular incident, and that Mr. Wiley  
20 was working there and was the victim in regards to the  
21 offense.  
22 I m not going to go into a very long lengthy  
23 statement about what all we're going to go through, but we're  
24 going to call -- we're going to call someone to identify a  
25 photograph of Mr. Wiley so that it can be used for

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1 identification purposes with some of our other witnesses,  
2 particularly the inmates that observed what happened that day.  
3 And, in fact, I anticipate we'll tell you some of the things  
4 that would indicate that the case -- and the actions by the  
5 defendant were thought out and planned. We'll probably bring  
6 somewhere in the neighborhood of six to eight witnesses in  
7 regards to that.  
8 That will probably conclude, then, the evidence  
9 that we will present to you during the guilt/innocence phase  
10 of the trial, and then we will move on into some other  
11 evidence that we think will assist you in regards to answering  
12 Question No. 1 and Question No. 2.  
13 The evidence that you're going to hear in  
14 regards to the offense that occurred on January 29th of 2003  
15 when Mr. Wiley was killed is also going to be critical and  
16 important for you to know and assess in determining your  
17 answer to Question No. 1 and Question No. 2. That's the  
18 reason we're going to go ahead and present that evidence to  
19 you, even though the defendant has pled guilty, because it's  
20 going to provide you information that will assist you in  
21 answering the probability of future dangerousness as well  
22 as --  
23 MR. DURHAM: Pardon me, Your Honor. It's -- I  
24 have to object. They have the burden to prove future  
25 dangerousness, so it's not an assist, it's their burden to

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1 prove future dangerousness.  
2 THE COURT: Okay. Thank you.  
3 MR. SIMS: Again, the State of Texas has the  
4 burden of proof on Question Issue No. 1. We have no burden of  
5 proof on Question Issue No. 2.  
6 That is what we're going to do in regards to  
7 our case. As I said, it will be quite a bit shorter than  
8 what it would have been otherwise. I appreciate you being  
9 here.  
10 Judge, that concludes my statement.  
11 MR. DURHAM: Your Honor, the defendant, Travis  
12 Runnels, reserves opening statement until presentation of the  
13 State's case, before we call our witnesses. Thank you.  
14 THE COURT: Okay. Call your first witness.  
15 MR. SIMS: Catherine Nall.  
16 Your Honor, may we approach a minute?  
17 THE COURT: Sure.  
18 (At the bench, on the record)  
19 MR. SIMS: We've got family members that we may  
20 call in the punishment phase and they're still in the  
21 courtroom.  
22 THE COURT: It is a unified procedure.  
23 MR. SIMS: Pardon?  
24 THE COURT: We've got a unified proceeding at  
25 this point. You're going to have to take them out of the

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1 courtroom.  
2 MR. DURHAM: I invoked the Rule.  
3 MR. SIMS: Okay.  
4 MR. DURHAM: Your Honor, while we're here --  
5 while we're here, they have inmates who are under subpoena  
6 that they intend to call, I want them brought into the  
7 courtroom and sworn and instructed on the Rule.  
8 THE COURT: I'll do that at the next break.  
9 MR. DURHAM: Okay.  
10 (Open court)  
11 CATHERINE NALL,  
12 having been first duly sworn, testified as follows:  
13 DIRECT EXAMINATION  
14 BY MR. YONTZ:  
15 Q. Would you state your name, please, ma'am.  
16 A. Yes, sir. My name is Catherine Nall.  
17 Q. Where do you live?  
18 A. I live in Austin, Texas.  
19 Q. Ms. Nall, do you know an individual by the name of  
20 Stanley Allen Wiley?  
21 A. Yes, that would be my brother.  
22 Q. And --  
23 MR. YONTZ: May I approach, Your Honor?  
24 THE COURT: Sure.  
25 Q. (BY MR. YONTZ) I'll show you what's marked as

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1 State's Exhibit No. 1. Do you know who that individual is?  
2 A. Yes, this is my brother, Stanley.  
3 Q. Where did Stanley work?  
4 A. Stanley worked at the prison in the boot factory.  
5 Q. And do you know what his position was as an employee  
6 of the prison?  
7 A. I believe he was a supervisor.  
8 MR. YONTZ: I have no other questions, Your  
9 Honor. May we publish Exhibit 1?  
10 MR. DURHAM: May I see Exhibit 1? I didn't  
11 look at the back of it.  
12 MR. YONTZ: It says "1".  
13 MR. DURHAM: Well, I don't -- I haven't seen  
14 the back of it, so -- okay. No objection.  
15 THE COURT: Okay. Are you offering Exhibit 1?  
16 MR. YONTZ: Yes.  
17 THE COURT: All right. Now, no objection,  
18 correct?  
19 MR. DURHAM: That's correct, Your Honor.  
20 THE COURT: All right. The exhibit is  
21 received.  
22 MR. YONTZ: No further questions.  
23 MR. DURHAM: I have no questions.  
24 THE COURT: Okay, Ms. Nall, you may step down,  
25 please. If you would return outside, please.

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1 MS. NALL: Have I been excused? Do I need to  
2 go outside?  
3 MR. YONTZ: May she be excused?  
4 THE COURT: Does anybody intend to recall the  
5 witness?  
6 MR. SIMS: For right now, if she could wait  
7 outside, please.  
8 MR. DURHAM: I have no objection to her being  
9 excused.  
10 THE COURT: Call your next witness.  
11 MR. YONTZ: Your Honor, the State would next  
12 call Dr. Sridhar Natarajan.  
13 THE COURT: Doctor, if you would come right up,  
14 please, and take a seat here on the witness stand.  
15 SRIDHAR NATARAJAN, M.D.,  
16 having been first duly sworn, testified as follows:  
17 DIRECT EXAMINATION  
18 BY MR. YONTZ:  
19 Q. Sir, would you state your name, please?  
20 A. Sridhar Natarajan.  
21 Q. How are you employed, sir?  
22 A. The Chief Medical Examiner for Lubbock County, the  
23 Director of the Division of Forensic Pathology at the Texas  
24 Tech School of Medicine, and an assistant professor at the  
25 School of Medicine.

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1 Q. Following that answer, I've got a couple more  
2 questions. First of all, what's forensic pathology?  
3 A. Forensic pathology is the -- providing a manner and  
4 cause of death on a deceased individual after most times  
5 conducting an autopsy, taking photographs, making sure the  
6 body is properly identified, examining the body for wounds,  
7 natural disease, completing a formal report, as well as  
8 providing expert testimony.  
9 Q. Doctor, what experience have you had -- let me go  
10 back beyond that. Can you briefly outline your medical  
11 training for the ladies and gentlemen?  
12 MR. DURHAM: Your Honor, we'll stipulate that  
13 the doctor is qualified.  
14 THE COURT: Come up just a minute, please.  
15 (At the bench, on the record)  
16 THE COURT: I know what they want to do, but,  
17 you know, you can't run their case, so please don't offer to  
18 stipulate in front of the jury. I mean, if you want to come  
19 up here and do that and if they want to accept the  
20 stipulation, that's fine.  
21 MR. DURHAM: Just not do it in front of the  
22 jury?  
23 THE COURT: Yes.  
24 MR. DURHAM: Okay. I can do that.  
25 THE COURT: Because then it kind of puts them

1 forensic pathology. And from there, I came out to Lubbock and  
2 Texas Tech.  
3 Q. As a forensic pathologist and the head of the  
4 division at Texas Tech in Lubbock, how did you become involved  
5 in a Potter County case?  
6 A. The County of Lubbock and Texas Tech has contracts  
7 with the outlying counties, such as Potter County, where, when  
8 a justice of the peace requests an autopsy, it will come out  
9 to us.  
10 Q. And approximately how many autopsies have you  
11 performed or assisted in?  
12 A. I've performed myself approximately 1,300 autopsies,  
13 and I've overseen and reviewed approximately three to four  
14 thousand autopsies.  
15 MR. YONTZ: Your Honor, at this time, we would  
16 tender Dr. Sridhar Natarajan as an expert in the area of  
17 forensic pathology.  
18 MR. DURHAM: I have no objection.  
19 THE COURT: Okay. The witness is qualified.  
20 Let's proceed.  
21 Q. (BY MR. YONTZ) Doctor, can you explain to us what  
22 an autopsy is and the steps that are taken pursuant to  
23 protocol in conducting one?  
24 A. Initially, a body will be received at the medical  
25 examiner's office. It will arrive in a -- usually in a body

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1 in a position of, you know --  
2 MR. DURHAM: Which I intended to do.  
3 THE COURT: Okay. Well, then, I'm going to  
4 instruct you not to do it again.  
5 MR. YONTZ: I'll just be real brief on this and  
6 we'll tender.  
7 THE COURT: Okay.  
8 (Open court)  
9 Q. (BY MR. YONTZ) Again, Doctor, would you briefly  
10 outline your medical experience and your experience as a  
11 forensic pathologist?  
12 A. I did my medical degree at the Medical University of  
13 South Carolina in Charleston, where I received my M.D.  
14 Afterwards, I entered active duty service in the Army and I  
15 trained at the Walter Reed Army Medical Center in Washington,  
16 D.C. and the Brooke Army Medical Center in San Antonio, Texas,  
17 where I did my internship as well as my training in anatomic  
18 and clinical pathology.  
19 Afterwards, I was retained at the Brooke Army  
20 Medical Center and was the medical director there for  
21 microbiology, transfusion medicine, as well as flow cytometry  
22 and also conducted autopsies and was a surgical pathologist.  
23 I completed my time in the Army. I went in the Army Reserves,  
24 and at that time also I went over to the Bexar County Forensic  
25 Science Center and received my subspecialty training in

1 bag. Photographs will be taken. There will be verification  
2 of the identity of the decedent, after which an individual  
3 will be assigned to conducting an autopsy.  
4 The autopsy -- the body will then be placed on  
5 a table and an external examination will be performed, which  
6 will include examination of clothing as pertinent.  
7 Once the external examination is done, which  
8 we'll be looking for things such as disease processes,  
9 injuries, as well as examining the body for height and  
10 appropriate age.  
11 Once that's completed, then an internal  
12 examination will be conducted, which will involve actually  
13 cutting into the body, and this will begin with a Y-shaped  
14 incision which is on the chest, and then proceeds down the  
15 chest to the abdomen.  
16 The tissue and skin will be reflected back.  
17 Again, there will be an evaluation for injuries and natural  
18 disease. The ribs will be removed, organs within the chest,  
19 as well as the abdomen will be removed, weighed, and examined.  
20 In a similar fashion, the neck and head will be  
21 examined. Once the scalp is removed and reflected, the bone  
22 will be cut, the brain will be taken out, examined. And once  
23 all of these things are done, there may be photographs taken  
24 during the process.  
25 When completed, we'll provide a preliminary

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1 report, and at some point, probably within a few weeks to a  
2 couple of months, a final report will be put together.  
3 Q. Doctor, in regard to this, did Justice of the Peace,  
4 Haven Dysart, authorize and request an autopsy to be performed  
5 on the body of Stanley Allen Wiley?  
6 A. Yes.  
7 Q. Can you tell us how that body was received at the  
8 medical investigator's (sic) office?  
9 A. It was received with some medical intervention that  
10 had taken place. It was brought there --  
11 Q. What do you mean by medical intervention?  
12 A. By medical intervention, I'm stating that Mr. Wiley,  
13 after receiving some injuries, had been transported to a local  
14 hospital where an attempt was made to try to minimize his  
15 injuries or try to repair them.  
16 Q. In conducting an autopsy, do you also review the  
17 medical history that may accompany the person, I guess like  
18 hospital reports, hospital information that may give you an  
19 idea as to what the hospital did?  
20 A. Yes.  
21 Q. And did you do that in this case?  
22 A. Yes.  
23 Q. I'm sorry, you were telling us how the body arrived.  
24 A. Correct. It -- it just was received with a tan  
25 blanket overlying the body in a body bag, and we also had law

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1 enforcement accompany the body to attend the autopsy.  
2 Q. Okay. Is that unusual to have law enforcement  
3 accompany?  
4 A. No. In a case where there's a suspicious death or a  
5 violent death, oftentimes law enforcement will accompany the  
6 body.  
7 Q. Did you, in fact, conduct an autopsy on the body of  
8 Mr. Wiley?  
9 A. Yes.  
10 Q. And did you use the same protocol as you outlined  
11 previously?  
12 A. Yes.  
13 Q. Can you explain to the ladies and gentlemen what  
14 your examination revealed as far as injuries that had been  
15 sustained?  
16 A. The main injuries sustained to Mr. Wiley involved  
17 his neck region. Essentially, we had -- when he arrived to  
18 the morgue, he -- since he had been already at the hospital,  
19 one of the things that had taken place was there was a  
20 suturing of the wound that was found on his neck. The wound,  
21 once it was opened up, we measured it. It was approximately  
22 23 centimeters in length and essentially began from high up on  
23 the right side of his neck and then proceeded downward towards  
24 the front of the neck, across the front, and then over to the  
25 side on the left.

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1 The tissue in this region was reflected and we  
2 examined to see what were the main injuries within the neck.  
3 Q. Doctor, you indicated it ran from this --  
4 approximately this location under the ear, around to the left  
5 side. (Indicating) Were you able to determine the direction  
6 that the injury was inflicted, whether it was this way or --  
7 from left to right or right to left?  
8 A. I was not able to decide that. There had been some  
9 medical intervention with the suturing, which then hindered  
10 the actual interpretation. But it was definitely a clean  
11 wound in the sense that it was due to a sharp instrument.  
12 Q. Doctor, were there any other significant injuries to  
13 other parts of the body other than the neck and throat area?  
14 A. The only other finding was, evidently some  
15 cardiopulmonary resuscitation had been performed, and there  
16 were two associated rib fractures which we felt were due to  
17 the CPR.  
18 MR. DURHAM: Are you asking me to approve it  
19 before you ask questions?  
20 MR. YONTZ: No, I'm asking for you to look at  
21 it.  
22 THE COURT: Just go on with your examination of  
23 the witness.  
24 Q. (BY MR. YONTZ) Doctor, could I have you step down,  
25 please?

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1 MR. DURHAM: If he intends to use that as an  
2 exhibit, I don't want it shown to the jury until it's properly  
3 admitted.  
4 THE COURT: Okay. Have the witness identify  
5 that, please.  
6 MR. YONTZ: I'll do that with my next question,  
7 Your Honor.  
8 THE COURT: Okay.  
9 Q. (BY MR. YONTZ) Doctor, are you familiar with this  
10 particular item?  
11 A. Yes.  
12 Q. And what is this?  
13 A. This is a diagram of the region of the neck by a  
14 gentleman by the name of Frank Netter, who did quite a few  
15 anatomy illustrations.  
16 Q. And are the Netter diagrams accepted as accurate  
17 anatomical depictions?  
18 A. Yes.  
19 Q. And is this also accurate?  
20 A. Yes.  
21 MR. YONTZ: Your Honor, we would move State's  
22 Exhibit 37 -- not -- I would mark it at this time as State's  
23 Exhibit 37. I may have a mark on it.  
24 MR. DURHAM: I certainly have no objection to  
25 it being marked.

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1 MR. YONTZ: That's fine, it's already marked.  
2 THE COURT: Okay. Are you offering it then?  
3 MR. YONTZ: No, sir, because we may mark on it.  
4 I don't want to --  
5 MR. DURHAM: Then I don't want it displayed  
6 until it's -- until it's admitted, Your Honor. I think that's  
7 the proper procedure.  
8 MR. YONTZ: Not when you're using charts and  
9 diagrams to diagram injuries.  
10 MR. DURHAM: Your Honor, this is improper  
11 argument before the jury. I've made my objection.  
12 THE COURT: For the purposes of illustration,  
13 I'll allow you to exhibit it.  
14 MR. YONTZ: Thank you.  
15 THE COURT: And then you can offer it later as  
16 marked up. Thank you.  
17 MR. YONTZ: Thank you.  
18 Q. (BY MR. YONTZ) Doctor, could you step down, please.  
19 Doctor, what are we looking at?  
20 A. This is a diagram of the neck. Mainly it's showing  
21 here the anterior or the front aspect of the neck with the  
22 skin and some of the muscle and tissue has been removed. So  
23 you're looking at the internal contents, essentially, of the  
24 neck, predominantly of the vessels and skeletal muscle.  
25 Q. Okay. This indicates superficial veins. Are there

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1 structures beneath this also?  
2 A. Yes.  
3 Q. And what would those be?  
4 A. If you were to reflect or take away the superficial  
5 muscles here, such as the sternocleidomastoid muscle, and  
6 moved it back, which has been done over here, you would see  
7 deeper vessels.  
8 So the right side is showing more superficial,  
9 but with reflection of the muscles, you're seeing some of the  
10 deeper vessels.  
11 Q. You indicated that there was a rather lengthy cut.  
12 Can you indicate to us approximately where that cut would have  
13 gone through on the superficial vessels?  
14 A. (Witness complies)  
15 Q. Okay. As it transversed across there, what, if any,  
16 structures were damaged or severed?  
17 A. The main injuries that took place here were to the  
18 external carotid, the internal jugular on the right side.  
19 Q. Okay.  
20 A. And those -- we can see the external carotid over  
21 here, but it's not as easily labeled here because they  
22 reflected more of the tissue. It happens to be on the left  
23 side, but in this particular case, the injuries themselves  
24 took place on the right side.  
25 Q. When you cut a major vessel like that, what happens

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1 to the body?  
2 A. Well, with a sharp force injury such as this, you  
3 are going to have a great deal of blood and -- blood that's  
4 going to be released from both the vein and the artery,  
5 particularly the artery, and even more so because the entire  
6 vessel has been cut.  
7 Q. Okay. And in this case, was it a transection of  
8 those vessels?  
9 A. Yes, it was.  
10 Q. Does that pose a serious risk to the individual's  
11 health?  
12 A. Yes.  
13 Q. Can you explain that to the ladies and gentlemen?  
14 A. Yes. Once vessels of this size, with a large amount  
15 of blood flow going through them, are either partially cut or  
16 transected, there's going to be a great deal of hemorrhaging  
17 or bleeding taking place.  
18 There's a large amount of blood flow that goes  
19 to the head, and it precedes through these vessels. So  
20 there's going to be hemorrhaging coming out, and then in  
21 addition, the tool itself, the weapon, also cut across the  
22 trachea, opening the trachea, as well as being -- the thrust  
23 was forceful enough that it went towards the spine, striking  
24 the spine, which is located behind all of these systems.  
25 Q. You indicated the word trachea, what is the trachea?

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1 MR. DURHAM: Pardon me, Your Honor. If counsel  
2 is not using the chart, he should remain seated, is my  
3 understanding of the rules. The doctor is the one using the  
4 chart.  
5 THE COURT: Overruled.  
6 Q. (BY MR. YONTZ) Go ahead. What is the trachea,  
7 Doctor?  
8 A. The trachea is the airway where oxygen and other  
9 elements are going to be proceeding down into the lungs.  
10 Q. Doctor, I'll show you what has been marked as  
11 State's Exhibit No. 36, and ask if you're familiar with this  
12 particular item?  
13 A. Yes.  
14 Q. What is this?  
15 A. These are diagrams that we use in our office to  
16 describe, in a region of the neck, injuries that may have  
17 taken place.  
18 Q. And does this relate to any particular individual  
19 specifically?  
20 A. Yes. This relates to Stanley A. Wiley.  
21 Q. What are we looking at here on these three areas?  
22 A. Here we're looking at -- actually just looking at  
23 the front of the trachea. This is some tissue here, soft  
24 tissue. This is cartilage here. And then we have the  
25 tracheal cartilage as it proceeds downward. And if you

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1 continued, you would see it branching into each of the right  
2 and left lungs respectively.

3 There's a line that has come across here which  
4 essentially is descriptive of the type of injury that was  
5 received location-wise on the trachea.

6 Q. Okay. There is also items on this one, which is the  
7 diagram on the left here, what are we looking at here and  
8 what's noted?

9 A. If you were to take this diagram and rotate it, you  
10 would be looking at the back of it. And that's what we're  
11 looking at here, is the back side of this diagram here, which  
12 is now showing you -- again, you're looking at the back of the  
13 cartilage here. This is the epiglottis.

14 And down here, we just indicated that the  
15 thyroid gland was cut with that injury, as well as, on one  
16 side it was completely cut, and then on the other side it was  
17 partially cut.

18 Q. You indicated this is cartilage. As far as the  
19 make-up of things in the body, skin, muscle, bone, how does  
20 this relate in density and I guess toughness?

21 A. It's going to be more tough than skeletal muscle or  
22 muscle itself. It's going to be -- essentially, the concept  
23 of once a wound is penetrated through the skin, if your blade  
24 is sharp enough, it's going to continue to cut until it  
25 strikes something very firm, which would be most likely like

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1 dense bone.

2 In striking something like cartilage, if your  
3 weapon is sharp enough and there is enough of an adequate  
4 thrust, it should cut through it.

5 Q. And you indicated this actually went through and  
6 actually went into the spine in the back of the neck?

7 A. That's correct.

8 Q. Is that a wound that's going to be sustained simply  
9 by drawing a sharp object across or are we looking at  
10 something you would describe as with considerable force?

11 MR. DURHAM: Your Honor, some leading is  
12 acceptable, but --

13 THE COURT: Your objection as to leading --

14 MR. DURHAM: Leading.

15 THE COURT: - is sustained.

16 MR. DURHAM: Thank you, Your Honor.

17 Q. (BY MR. YONTZ) How would you describe the force  
18 necessary to cut through the structures of the neck as well as  
19 the cartilage and into the spine?

20 A. When we're describing force, we don't really use a  
21 quantitative number value with sharp force injuries. But with  
22 the type of injuries that are seen, I would state that this is  
23 a moderate to severe level of force required since it did  
24 strike the spine.

25 Q. Okay.

1 MR. YONTZ: Your Honor, the State would move  
2 Exhibits 36 and 37 at this time.

3 MR. DURHAM: No objection.

4 THE COURT: Exhibits are received.

5 MR. YONTZ: Thank you.

6 Q. (BY MR. YONTZ) Doctor, you've indicated sharp force  
7 injury. What are you talking about when you say the words  
8 sharp force injury?

9 A. Sharp force injuries are injuries due to some sort  
10 of a tool or implement where the cutting edge is sharp enough  
11 that once it is striking, most times the skin, there's going  
12 to be clean separation of the tissue without what we see  
13 underneath, something we call bridging of underlying tissue;  
14 in other words, strands of tissue that are still connected as  
15 we would see in blunt force trauma.

16 Q. Would this be consistent with an injury that could  
17 be caused by a sharp knife?

18 A. Yes.

19 Q. Doctor, during the course of your examination, did  
20 you determine a cause of death in this matter?

21 A. Yes.

22 Q. What was that?

23 A. Sharp force injuries of the neck.

24 Q. Okay. And in regard to this, is that -- are those  
25 findings also consistent with the finding that the manner of

1 death is a homicide?

2 A. Yes.

3 MR. YONTZ: I have no further questions, Your  
4 Honor.

5 MR. DURHAM: If I may have just a moment, Your  
6 Honor.

7 CROSS-EXAMINATION

8 BY MR. DURHAM:

9 Q. Just a couple of questions. And usually when a  
10 lawyer says a couple of questions, they go on and on, but,  
11 really, I just have two.

12 You've just testified that the manner of death  
13 was homicide, but that's not consistent with your autopsy  
14 report, is it?

15 A. The manner of death, if I was asked the opinion  
16 of --

17 Q. Sir, it's a yes-or-no question. Is it consistent  
18 with what you put on your autopsy report?

19 A. The manner of death would be determined by the  
20 justice of the peace.

21 Q. Okay. You didn't determine the manner of death?

22 A. No.

23 Q. So, see, I'm already -- already gone past -- that's  
24 my two, except I've got one more, so it's three. Let's go for  
25 four.

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1 How long is 23 centimeters?  
2 A. Approximately nine to ten inches.  
3 Q. All right. Would you open that board and draw the  
4 approximation of 23 centimeters for the jury's benefit,  
5 please?  
6 Or better yet, could we -- could you -- well,  
7 these are not to scale, are they?  
8 A. No, they're not.  
9 Q. Okay. So it would be -- you couldn't -- if you put  
10 23 centimeters on that, it wouldn't show it properly, would  
11 it?  
12 A. I don't believe it would.  
13 Q. Okay. Well, just open the board and demonstrate to  
14 the jury how long 23 centimeters is, if you -- if you know  
15 exactly how long 23 centimeters is.  
16 A. Well, we would need a ruler.  
17 Q. Okay. I don't have a ruler.  
18 THE COURT: Go to my office and get one.  
19 Q. (BY MR. DURHAM) Does that have centimeters on it?  
20 It doesn't have centimeters.  
21 A. Well, we can just -- we can convert.  
22 Q. Okay.  
23 A. 2.5 centimeters --  
24 Q. You may be able to, but I can't.  
25 Just draw it there for us.

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1 A. (Witness complies)  
2 Q. Okay. That's -- you're showing that's -- how long  
3 is that, please?  
4 A. This should be approximately 23 right here.  
5 (Indicating)  
6 Q. Okay. Okay. So in inches -- tell me in inches  
7 about what that would be. Just measure it there. Just kind  
8 of tell us with your measurement about how far that would be.  
9 A. It would be approximately nine inches.  
10 Q. Okay. Will you put "nine inches" above that,  
11 please? You see, I don't understand meters and centimeters or  
12 millimeters. So the wound was about nine inches long, right?  
13 A. Yes.  
14 Q. And a round -- and a roundness like -- of course,  
15 the neck is round.  
16 A. Well, the wound is nine inches long.  
17 Q. On a round surface?  
18 A. It would be on any surface, it's nine inches.  
19 Q. Well, but -- well, yeah, that's right. I'm just  
20 saying that if I draw nine inches across my neck, it would  
21 cover more than my neck, where if I started up here, it could  
22 stop somewhere in between or just past halfway. Would you  
23 agree with that?  
24 A. I would just state that it's nine inches on your  
25 neck and you could get it in a variety of ways.

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1 Q. Depends on the size of your neck?  
2 A. Yes.  
3 Q. That's the reason they make shirts in different  
4 sizes?  
5 A. Well, it's nine inches on your neck.  
6 Q. Well, I'm sorry I asked you more than two questions,  
7 but I really intended to only ask two. Thank you very much.  
8 MR. DURHAM: I'll pass the witness.  
9 MR. YONTZ: No further questions, Your Honor.  
10 THE COURT: Okay, Doctor, you can step down.  
11 MR. YONTZ: Your Honor, may Dr. Natarajan be  
12 excused?  
13 MR. DURHAM: We certainly have no objection.  
14 THE COURT: Okay. You're free to go. Thanks.  
15 DR. NATARAJAN: Thank you.  
16 THE COURT: Call your next witness.  
17 MR. SIMS: Bud Williams. Our next witness has  
18 not been sworn, Your Honor.  
19 (At the bench, on the record)  
20 MR. DURHAM: This is an inmate who, when he  
21 gets through testifying, will go back --  
22 THE COURT: Okay, okay. All right. I wasn't  
23 aware that we were beginning with the penitentiary guys. I  
24 thought I said I was going to take them out and swear them all  
25 in.

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1 MR. SIMS: Okay.  
2 (Open court)  
3 THE COURT: Okay, folks, if you'll step into  
4 the jury room, please.  
5 (Jury left the courtroom)  
6 THE COURT: Okay, Gary, -- how many witnesses  
7 do you have down there that you intend to call who are  
8 inmates?  
9 MR. SIMS: Eight, Your Honor.  
10 THE COURT: Okay. I need to chain them all in  
11 a line and bring them up here.  
12 MR. SIMS: Actually, there's only seven there,  
13 Your Honor. One is on parole, so he's not in the back.  
14 THE COURT: Okay. So seven of them on a chain  
15 and bring them up here to the courtroom, please. Go no  
16 further than the edge of the jury box with them when they're  
17 brought up. You can take this guy back and do him the same  
18 way.  
19 With regards to your others, what I know is  
20 coming, there will be no ability to keep these people apart  
21 after their testimony. I'll swear them in, I'll instruct them  
22 on the rule. You may certainly voir dire each of them as they  
23 come up here with regard to any discussions they have, but  
24 there is simply no way to keep them separate.  
25 MR. DURHAM: I understand that and I will

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1 ask -- I would like the opportunity to ask appropriate  
2 questions about their contact outside the presence of the  
3 jury.  
4 MR. SIMS: Your Honor --  
5 THE COURT: I don't know how I'll work that.  
6 Yes, sir?  
7 MR. SIMS: The guards have informed me that  
8 they don't have -- they're just in hand restraints.  
9 THE COURT: Okay.  
10 THE GUARD: We have other restraints down in  
11 holding, we can get them if we need it.  
12 MR. SIMS: And they also are planning, I'm not  
13 sure how, but they're planning on trying to keep them  
14 separate. Once they testify, they're going to try to keep  
15 them not -- from getting back together.  
16 THE COURT: Okay.  
17 MR. DURHAM: That would meet -- what you just  
18 brought up, that would be okay with me.  
19 MR. SIMS: That had been previously discussed  
20 with them.  
21 THE COURT: All right. If that's the  
22 situation, then, how many -- how many do you feel comfortable  
23 bringing up at a time here just for me to swear in and take  
24 them back?  
25 THE GUARD: We can bring them all up if you

1 MR. YOW: Yes, sir. I will not testify at all.  
2 THE COURT: Okay. All right. So you will not  
3 swear nor affirm that you will tell the truth if called as a  
4 witness in this case?  
5 MR. YOW: I'm saying that I would not testify,  
6 so I would not swear in.  
7 THE COURT: All right. Well, that's a decision  
8 that you make. If you -- if you're called as a witness -- you  
9 know, I've got to tell you Mr. Yow, I feel kind of foolish  
10 telling you this --  
11 MR. YOW: Uh-huh.  
12 THE COURT: -- you being in the penitentiary  
13 and all.  
14 MR. YOW: Yes, sir.  
15 THE COURT: But if you refuse to testify as a  
16 witness, I'll hold you in contempt and keep you in jail until  
17 you do agree to testify.  
18 MR. YOW: That's fine. I'll stay in jail, sir.  
19 THE COURT: That's why I say that I feel kind  
20 of foolish.  
21 Okay. Now, as a practical matter, Mr. Yow,  
22 what is going to happen, though, is, if the State insists on  
23 calling you into the courtroom as a witness, I'm still going  
24 to bring you in.  
25 MR. YOW: All right. That's fine. I'll come,

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1 need them, all seven of them. We have two officers in here.  
2 THE COURT: Okay. That would make it a lot  
3 easier, then. And just bring them and hold them right there  
4 in that area and I'll swear them in and then --  
5 THE GUARD: Hand restraints?  
6 THE COURT: Well, yeah, keep --  
7 MR. SIMS: Just hands.  
8 THE COURT: Yeah, just hands is fine, yeah.  
9 (Pause)  
10 MR. SIMS: Judge, I've now been told they're  
11 going to be put in the holding cell together after they  
12 testify. There's not a way to keep them separate here.  
13 THE COURT: Okay.  
14 (Pause)  
15 THE COURT: Okay, I'm going to swear each of  
16 you in as a witness, then I'll give you some instructions with  
17 regard to this trial.  
18 (Witnesses sworn)  
19 MR. YOW: No, sir.  
20 THE COURT: Okay. And your name, sir, is?  
21 MR. YOW: Yow.  
22 THE COURT: Yow?  
23 MR. YOW: Yes, sir.  
24 THE COURT: Okay. Will you affirm to that,  
25 Mr. Yow?

1 sir.  
2 THE COURT: And then we'll -- then you can --  
3 if that's your choice, then you'll repeat that refusal again.  
4 MR. YOW: Yes, sir.  
5 THE COURT: Okay. All right. Now, what I was  
6 going to tell you, those of you who will testify, is this:  
7 The Rule has been invoked. What that means is that I am  
8 instructing you not to discuss your testimony or the testimony  
9 of other witnesses with each other or anyone else.  
10 You're not to read anything in the newspaper or  
11 watch television and see the media reports of it, don't listen  
12 to anything about it on the radio with regard to the testimony  
13 of other witnesses. Does everybody understand those things?  
14 WITNESSES: Yes, sir.  
15 THE COURT: Okay. All right. Thanks a lot.  
16 No, sir, step back, please, while we're doing  
17 this. Nobody but prison folks over here. I'm completely  
18 serious, Mr. Sims, not in this area.  
19 Okay. All right. Take them back, please.  
20 Okay. We'll be in recess for about another ten  
21 minutes until the jury gets back, then.  
22 Okay. I need to make something clear here. No  
23 lawyers, State, defense, or otherwise are allowed through this  
24 door.  
25 MR. DURHAM: I've not --



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1 THE COURT: Nobody.  
2 MR. DURHAM: I've not been through there.  
3 THE COURT: I know you haven't, sir, and it's  
4 not pointed to you --  
5 MR. DURHAM: All right.  
6 THE COURT: -- that comment.  
7 Another thing is, this is a huge security  
8 issue, and I'm running the courtroom, so when I say, "Move,  
9 stop, don't," I want those instructions followed explicitly.  
10 MR. SIMS: Yes, sir.  
11 THE COURT: I'm not trying to bully this  
12 courtroom, I'm trying to keep the jurors, the litigants, the  
13 lawyers, and the gallery safe during this trial.  
14 MR. SIMS: Yes, sir.  
15 THE COURT: All right.  
16 (Recess)  
17 THE COURT: Okay. Everybody be seated, please.  
18 (Jury returns to the courtroom)  
19 THE COURT: Be seated, please.  
20 Okay. Bring Mr. Williams in, please.  
21 Mr. Williams, if you would come right through  
22 the middle there, please, sir, and take a seat back on the  
23 witness stand.  
24 Now reach up and pull that microphone sort of  
25 towards you, Mr. Williams. Thank you.

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1 Go right ahead.  
2 BUD WILLIAMS, JR.,  
3 having been first duly sworn, testified as follows:  
4 DIRECT EXAMINATION  
5 BY MR. SIMS:  
6 Q. Would you state your name, please, sir?  
7 A. Bud Williams, Jr.  
8 Q. Where are you currently residing?  
9 A. Bill Clements Unit.  
10 Q. Is that a maximum security unit for the Texas  
11 Department of Criminal Justice, Institutional Division?  
12 A. Yes, sir.  
13 Q. What are you in prison for at this time, sir?  
14 A. Aggravated sexual assault.  
15 Q. Doing a 55-year sentence out of Potter County; is  
16 that correct?  
17 A. Yes, sir.  
18 Q. In regards to your testimony here today, has anybody  
19 promised you anything at all?  
20 A. No, sir.  
21 Q. Do you know a Travis Trevino Runnels?  
22 A. Yes, sir.  
23 Q. See him here in the courtroom today?  
24 A. Yes, sir.  
25 Q. Would you please point him out and describe what

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1 he's wearing?  
2 A. Red shirt and tie, glasses, tan pants, brown shoes.  
3 Q. How long have you known him?  
4 A. About eight years.  
5 Q. Before being on the Clements Unit with him, were  
6 y'all in another unit together?  
7 A. In the Robertson Unit.  
8 Q. For about how long were you there together?  
9 A. He was in seg and I was in G-3. I used to cut hair  
10 back then. Didn't know him back then.  
11 Q. Okay. Do -- did you know Stan Allen Wiley?  
12 A. Yes, sir.  
13 Q. Who was he out at the prison, sir?  
14 A. He was a boot factory worker, staff.  
15 Q. I'll show you State's Exhibit No. 1. Are you able  
16 to recognize that?  
17 A. Yes, sir.  
18 Q. Who is that, sir?  
19 A. Mr. Wiley.  
20 Q. How did you come to know Mr. Wiley at the prison?  
21 A. I worked out there about 12 days in the second shift  
22 boot factory.  
23 Q. That's all you worked at the boot factory; is that  
24 correct?  
25 A. Yes, sir.

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1 Q. What's your current job?  
2 A. Barber.  
3 Q. On January 29th of 2003, are you aware of where this  
4 defendant, Mr. Runnels, was working?  
5 MR. DURHAM: Calls for a hearsay response, Your  
6 Honor, unless he was personally present.  
7 THE COURT: Overruled.  
8 Q. (BY MR. SIMS) Are you aware of where Mr. Runnels  
9 was working?  
10 A. Yes, sir.  
11 Q. Where was he working at?  
12 A. First shift boot factory.  
13 Q. And there's only one boot factory out at the prison,  
14 isn't there?  
15 A. Yes, sir.  
16 Q. From your discussions with Mr. Runnels, are you  
17 aware of where he worked at before he was in the boot factory?  
18 A. He was in the boot factory.  
19 Q. Before he was in the boot factory?  
20 A. Before that, he was working as a barber and then in  
21 the kitchen.  
22 Q. And from your discussions with Mr. Runnels, why was  
23 he no longer in the -- a barber, and then why was he no longer  
24 in the kitchen and now in the boot factory?  
25 MR. DURHAM: Your Honor, that -- that calls

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1 for -- that calls for a hearsay response unless it could  
2 involve subjective desires.

3 THE COURT: Overruled.

4 A. He was working as a barber and he got switched to  
5 the kitchen, but he had problems in the kitchen with someone,  
6 but they never wrote him a case and he --

7 MR. DURHAM: That's exactly the gravamen of my  
8 objection, Your Honor. How would he know that -- what those  
9 problems were, if there were, in fact, problems?

10 THE COURT: As I understood -- and I may be  
11 wrong. As I understood, the question was predicated on what  
12 Mr. Runnels told him.

13 MR. DURHAM: That was not the answer. That's  
14 my objection. Then it's nonresponsive, ask that it be --

15 THE COURT: Sustained.

16 MR. DURHAM: -- stricken and the jury to  
17 disregard.

18 THE COURT: The jury will disregard the last  
19 answer given.

20 Q. (BY MR. SIMS) Based on your discussions with  
21 Mr. Runnels, what is your understanding of why he was no  
22 longer in the kitchen, just --

23 MR. DURHAM: Okay --

24 THE COURT: Sustained.

25 A. He told me that a sergeant --

1 Q. Was Mr. Runnels upset, or how would you characterize  
2 Mr. Runnels' behavior in regards to them not releasing him  
3 from work at the boot factory?

4 A. He was upset because he was saying that once he got  
5 released, that he would get a barber job, which the sergeant  
6 said he would give him a job, and they didn't release him, so  
7 he was talking to different rank, you know, about trying to  
8 get a job, get from out of there. And one thing led to  
9 another when he said that he was trying to leave from -- he  
10 wanted to be from out there.

11 So that night, I went in there, I barber, I go  
12 to school, and I went in there --

13 MR. DURHAM: At some point, this became  
14 nonresponsive to the question.

15 THE COURT: Sustained.

16 Q. (BY MR. SIMS) Let me ask a few questions in there,  
17 okay?

18 Now, in regards to this conversation, that  
19 happened two days before the incident at the boot factory; is  
20 that correct?

21 A. Yes, sir.

22 Q. After that -- now, you go to school; is that  
23 correct?

24 A. Yes, sir.

25 Q. What time do you have to get up and go to school?

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1 Q. (BY MR. SIMS) No, you can't --

2 A. Okay.

3 Q. Just a minute. Let me ask it this way. Well, I'll  
4 come back to that.

5 Earlier during the week of January 29th of  
6 2003, did you have some communications and discussions with  
7 the defendant, Mr. Runnels?

8 A. Yes, sir.

9 Q. Did any of those deal with -- well, start with that  
10 Monday. Where were you at when you first had a discussion  
11 with Mr. Runnels?

12 A. We was on the pod in the section together where we  
13 stayed.

14 MR. DURHAM: Would you speak up just a little  
15 bit, sir?

16 A. We stayed in the same section together on the pod.

17 Q. (BY MR. SIMS) Okay. What happened at that time?

18 A. He was just saying he was trying to get released  
19 from the boot factory to get another job, and saying he was  
20 supposed to have been released from the boot factory, trying  
21 to go back being a barber. And he said that the plant  
22 manager, Mr. Williams, said he would release him if he would  
23 get someone to call him for a job. And so this sergeant  
24 called and said he would give him a job, but they didn't  
25 release him from the job.

1 A. I get up around 4:00. I have to be at school at  
2 5:00.

3 Q. Okay. Is that about the same time that the  
4 individuals are getting ready to go to the boot factory?

5 A. Yes, sir.

6 Q. Y'all start out early --

7 A. Yes.

8 Q. -- in the prison system; is that right?

9 A. Yes, sir.

10 Q. Okay. Did you wake up one morning and find anything  
11 under your door?

12 A. I woke up and there were some barber combs up under  
13 my door, and I woke up and asked my cellie who put them under  
14 there. So he said he didn't know. So --

15 MR. DURHAM: Objection. It's -- Your Honor,  
16 it's not responsive, and also has hearsay in the answer.

17 THE COURT: Sustained.

18 MR. DURHAM: May I have an instruction?

19 THE COURT: Let's proceed.

20 Q. (BY MR. SIMS) You didn't know who had placed the  
21 barber combs under there, correct?

22 A. Not at that time. When I woke up, I didn't.

23 Q. Okay. You asked your cellie about it; is that  
24 correct?

25 A. Yes, sir.

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1 Q. After that, who did you ask about it?

2 A. They rolled the doors for us to come out, and a

3 couple of other guys said Runnels put his barber combs under

4 the door.

5 MR. DURHAM: Your Honor, that's not responsive.

6 We continually get hearsay responses.

7 THE COURT: Sustained. Mr. Williams, listen to

8 the question that you're asked, sir, and answer just that

9 question, all right?

10 THE WITNESS: Yes, sir.

11 Q. (BY MR. SIMS) Once you got out, did you decide to

12 make contact with Mr. Runnels about --

13 MR. DURHAM: Leading question, Your Honor.

14 Counsel is leading his witness.

15 THE COURT: Don't lead the witness, please,

16 sir.

17 Q. (BY MR. SIMS) Did you eventually decide to contact

18 anyone about the combs that were left under your door?

19 A. Yes, sir.

20 Q. Who did you contact?

21 A. When I come out the cell door, Runnels was standing

22 in the day room and he told me he put the combs under there.

23 I said, "For what?" And he said --

24 MR. DURHAM: Nonresponsive to the question.

25 Objection.

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1 THE COURT: Sustained.

2 Q. (BY MR. SIMS) You've got to let me ask questions

3 before you answer.

4 A. Okay.

5 Q. You just can't tell a narrative story, okay?

6 MR. DURHAM: We're going to object to the

7 sidebar comment.

8 THE COURT: Let's proceed.

9 Q. (BY MR. SIMS) So you talked to this defendant, when

10 you said Mr. Runnels; is that correct?

11 A. Yes, sir.

12 Q. And he told you what?

13 A. That he put the barber combs up under my door.

14 Q. What happened at that point, very next thing?

15 A. He had a letter in his hand and asked me would I

16 mail this letter off to his mom if he don't come back. And I

17 asked him, "Where are you going?" and he said, "I might not

18 come back. I ain't going to be coming back." So I said,

19 "Okay. What you going to do?"

20 Q. What happened at that point?

21 A. I got the letter and just slid it up under my door

22 and we were walking on out. He said, "Do you want to know?"

23 I said, "Not really." He said, "I ain't coming back. Just

24 make sure the letter gets mailed to my mom." I said, "All

25 right." He said, "Because they're going" --

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1 Q. Did he --

2 A. -- "they're going to ship" --

3 Q. Did he, in fact, give you a letter --

4 A. He gave me a letter.

5 Q. -- at that time?

6 A. Yes, sir.

7 Q. Okay.

8 A. And he said, "Because if they don't release me, I

9 ain't coming back. They're going to ship me one way or the

10 other."

11 MR. DURHAM: That's not responsive to any

12 question.

13 THE COURT: Sustained.

14 MR. DURHAM: May I have --

15 THE COURT: The jury is instructed to

16 disregard.

17 Q. (BY MR. SIMS) After he gave you the letter, what's

18 the very next thing that happened? Just --

19 A. I put the letter --

20 Q. -- the very next thing. Not a whole bunch, just the

21 next thing.

22 A. I put the letter up under my door.

23 Q. Then what happened?

24 A. We walked off the section.

25 Q. Okay. Now, you said he told you what about the

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1 letter? What were your instructions to do with the letter?

2 MR. DURHAM: Asked and answered.

3 THE COURT: Sustained.

4 A. He asked me would I mail it --

5 THE COURT: Okay. You don't need to answer

6 that question. I sustained the objection to that, so he'll

7 ask you another question now.

8 Q. (BY MR. SIMS) Did you read the letter at that time?

9 A. No, sir.

10 Q. At one point, did you tell him, yes, you would like

11 to know what he was going to do?

12 A. Yes, sir.

13 Q. What happened after you told him that?

14 A. He told me what his intent -- what -- what he was

15 going to do.

16 Q. What did he tell you?

17 A. He said he was going to get shipped one way or

18 another, that he was going to kill someone. I said, "Man, you

19 tripping." I mean, you know, "What are you talking about?"

20 He said, "I'm for real." So --

21 Q. What happened after that?

22 A. He went on to the boot factory and I went on to

23 school.

24 Q. Did he give you anything else at that time?

25 A. No, sir.

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1 Q. Did you ever remember seeing a yellow sheet of  
2 paper?  
3 MR. DURHAM: Leading question.  
4 A. No, sir.  
5 MR. DURHAM: Objection --  
6 THE COURT: Sustained.  
7 MR. DURHAM: -- to the leading --  
8 THE COURT: Sustained.  
9 MR. DURHAM: May I have an instruction to  
10 counsel to stop leading?  
11 THE COURT: Proceed.  
12 Q. (BY MR. SIMS) Besides delivering the letter, did he  
13 ask you to do anything else?  
14 A. No --  
15 Q. At that time, at that time.  
16 A. No, sir.  
17 Q. Okay. Now, did you go on and go to school that day?  
18 A. Yes, sir.  
19 Q. What happened while you were at school?  
20 A. We was in school doing classwork, and all of a  
21 sudden, they said -- had a response to the boot factory.  
22 MR. DURHAM: Hearsay.  
23 THE COURT: Okay. Let's don't ask open-ended  
24 questions that call for a narrative, please. Let's ask direct  
25 questions and then we -- I don't think Mr. Williams knows when

1 sir?  
2 A. This is my 13th year.  
3 Q. Based on you being aware that the whole unit had  
4 been racked up, based on your observations, what did you think  
5 had happened that day?  
6 MR. DURHAM: Your Honor, that's not admissible,  
7 what he thought happened, and it calls for a hearsay response  
8 and it is immaterial and it is irrelevant.  
9 THE COURT: Sustained.  
10 Rephrase your question, please.  
11 Q. (BY MR. SIMS) After the unit was racked up -- or,  
12 as a matter of fact, after Mr. Runnels left to go to the boot  
13 factory and you went to school, did you ever see the defendant  
14 again?  
15 A. No, sir, not until today.  
16 MR. SIMS: I'll pass the witness, Your Honor.  
17 MR. DURHAM: Thank you.  
18 CROSS-EXAMINATION  
19 BY MR. DURHAM:  
20 Q. Mr. Williams, just a few questions.  
21 You forgot to tell the jury about Travis  
22 telling you that Mr. Wiley was messing with him, didn't you?  
23 A. He never told me Mr. Wiley was messing with him.  
24 Q. Well, in your statement you said that. Do you not  
25 remember your written statement?

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1 we want him to stop, you know, when it becomes nonresponsive,  
2 so ask direct questions.  
3 Q. (BY MR. SIMS) You went on to school that day; is  
4 that correct?  
5 A. Yes, sir.  
6 Q. While you were at school that morning, did you  
7 become aware that something had happened on the unit?  
8 A. After they did a response and racked us up.  
9 MR. DURHAM: Your Honor, that's a yes-or-no  
10 question.  
11 THE COURT: Sustained.  
12 MR. DURHAM: It's not a responsive answer.  
13 Q. (BY MR. SIMS) Did you become aware that something  
14 had occurred on the unit?  
15 A. Not until they racked us up.  
16 Q. Tell the ladies and gentlemen of the jury what  
17 racking you up means.  
18 A. That means that everybody on the unit, you go back  
19 to your pod, to your cell, and you're in lockdown.  
20 Q. Will just any kind of minor problem cause the whole  
21 unit to get racked up?  
22 MR. DURHAM: Objection, that calls for an  
23 interpretation of prison policy, Your Honor.  
24 THE COURT: Sustained.  
25 Q. (BY MR. SIMS) How long have you been in prison,

1 MR. DURHAM: May I approach the witness, Your  
2 Honor?  
3 THE COURT: Sure.  
4 Q. (BY MR. DURHAM) Here, you gave a rather lengthy  
5 voluntary statement, three -- three pages worth. Do you  
6 want -- do you want to review that? Go ahead and review it.  
7 First, is that the statement you gave? Look at  
8 the signature there and see if that's the statement you gave.  
9 A. That's my signature.  
10 Q. That's your signature, that's your statement. Do  
11 you want to read that -- take a moment, please?  
12 A. (Witness reading)  
13 THE COURT: Mr. Durham, perhaps you'll direct  
14 his attention out of that three pages to the part that you  
15 wish to cross-examine about.  
16 (Pause)  
17 THE COURT: Have you completed your --  
18 THE WITNESS: Yes, sir.  
19 THE COURT: -- review, Mr. Williams?  
20 THE WITNESS: Yes, sir.  
21 THE COURT: Thank you. Let's proceed. He says  
22 he's completed his review.  
23 Q. (BY MR. DURHAM) Okay. Right, and did you find the  
24 part where you told them about Mr. Wiley messing with Travis?  
25 A. Yes, sir.

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1 Q. Okay. So you forgot to tell the jury about that,  
2 didn't you?  
3 A. Well, he said that --  
4 Q. Sir, did you tell the jury about that in all the  
5 statements you made?  
6 A. Yes, sir.  
7 Q. Oh, you did tell them?  
8 A. Do you want me to tell them?  
9 Q. And I missed it?  
10 A. Do you -- do you want me to tell them?  
11 Q. Sir, did he tell you that Mr. Wiley was messing with  
12 him?  
13 A. He said Mr. Wiley was messing with him.  
14 Q. Yes, sir, that's --  
15 A. That's what he said. I don't know.  
16 Q. Now, that's just based on what he said, right?  
17 A. Yes, sir.  
18 Q. Okay. Let me -- you've been in prison quite a  
19 while. Is the sexual offense the only case you've been  
20 convicted on?  
21 A. Yes, sir.  
22 Q. Okay. Having been in prison, you've been in more  
23 than one unit?  
24 A. Yes, sir.  
25 Q. Okay. What other units have you been in?

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1 A. Robertson, Hughes, Garza, Gurney.  
2 Q. And what occasioned you being transferred from one  
3 unit to another?  
4 A. They just transfer us.  
5 Q. For no reason?  
6 A. No reason.  
7 Q. Okay. In the prisons, are jobs important?  
8 A. Yes, sir.  
9 Q. So various jobs carry various benefits with them?  
10 A. That's the way you do your job.  
11 Q. Well, I mean, there's a difference in being on a  
12 farm unit and being out in the sun chopping cotton and being  
13 in a unit where it's air-conditioned and you're doing  
14 paperwork. Would you say there's a difference?  
15 A. There's a difference there.  
16 Q. And so jobs are very important?  
17 A. If you've got the skills to do it.  
18 Q. Okay. And your relationship with your supervisors  
19 is important; is that correct?  
20 A. That's correct.  
21 Q. Okay. And if you've got a good relationship with  
22 your supervisor, you're a happy prisoner, right?  
23 A. Yes, I guess.  
24 Q. And happy prisoners don't cause problems, do they?  
25 A. Yes, sir.

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1 Q. And if your supervisor is giving you a hard time,  
2 you're an unhappy prisoner, aren't you?  
3 A. Yes.  
4 Q. Okay. Now, when Travis told you he -- he might not  
5 be coming back, that could have meant a lot of things,  
6 couldn't it?  
7 A. Well, he stipulated why he didn't want to be out  
8 there.  
9 Q. Stipulated he did not want to be there?  
10 A. Yes.  
11 Q. So not coming back could mean that he was going to  
12 climb over the fence?  
13 A. Well, he put it in --  
14 Q. Pardon?  
15 A. -- words that he was going to do something to make  
16 them ship him.  
17 Q. Well, climb -- if he ran to climb over the fence,  
18 that would get their attention, wouldn't it?  
19 A. Yeah, if he done that.  
20 Q. Yeah. And you weren't present when anything  
21 happened?  
22 A. No, sir.  
23 Q. And you don't personally know what was going on in  
24 that boot factory?  
25 A. No, sir.

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1 Q. Are you -- strike that.  
2 Let me see if I can get this straight. He told  
3 you about problems he was having, correct?  
4 A. Yes, sir.  
5 Q. And he told you that he intended to put an end to  
6 those problems some way?  
7 A. Yes, sir.  
8 Q. And he didn't say, "I am going to" -- did he say, "I  
9 am planning to do A, B, C?"; that is, "I'm going to get a  
10 knife and go kill somebody"? Did he say that?  
11 A. No, he didn't say it -- he never told me he was  
12 going to get a knife and go do something. He just said that  
13 he was going to make them ship him some kind of way. And I  
14 said, "What you mean? You tripping."  
15 Q. Okay. So he -- he was -- he apparently was having a  
16 miserable time within that job?  
17 A. He didn't want to be out there.  
18 Q. And did he tell you what his job was out there?  
19 A. I think janitor, sweeping up, cleaning up, I think.  
20 Q. You don't know?  
21 A. I'm pretty sure that's what he said, that he was a  
22 janitor or something to the sort.  
23 Q. These various units you've been in -- I notice the  
24 State swore in several witnesses this morning, were -- and you  
25 were one of them, correct?

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1 A. Yes, sir.  
2 Q. And they were all inmates, correct?  
3 A. Yes, sir.  
4 Q. And there were seven of them, correct?  
5 A. Yes, sir.  
6 Q. And one of them was white, correct?  
7 A. Yes, sir.  
8 Q. And the other seven were black; is that correct?  
9 A. Yes, sir.  
10 Q. Is that -- does that represent the population at  
11 Clements, primarily black?  
12 MR. SIMS: Objection, calls for speculation.  
13 THE COURT: Well, overruled. If he can answer  
14 the question.  
15 Q. (BY MR. DURHAM) Is the population out there  
16 primarily black?  
17 A. I wouldn't say that.  
18 Q. Pardon?  
19 A. I wouldn't say that, to my knowledge.  
20 Q. It's just that the witnesses they swore in were all  
21 black?  
22 A. I guess that was the ones that worked out there. I  
23 didn't work in there at that time.  
24 Q. Well, you're familiar with using knives, aren't you?  
25 A. Why would you say that?

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1 Q. You used a knife when you raped that 80-year-old  
2 woman that you went to prison for.  
3 A. That's what they claimed.  
4 MR. SIMS: Objection, Your Honor. It's not  
5 admissible.  
6 THE COURT: Sustained.  
7 Q. (BY MR. DURHAM) All right. Have you ever used --  
8 did you use a knife in the commission of the offense you're in  
9 prison for?  
10 A. No, sir. That's what they put down. Wasn't no  
11 knife ever found.  
12 Q. Oh, they lied about it?  
13 A. I guess so. If they would give me a DNA, I would be  
14 innocent today.  
15 Q. So you're an innocent man in prison?  
16 A. Give me a DNA and it will prove it.  
17 Q. You're an innocent man in prison?  
18 A. Yes, sir.  
19 Q. So you're hoping to get a DNA to help you get out of  
20 prison --  
21 A. Yes, sir.  
22 Q. -- and you haven't been promised a DNA for  
23 testifying?  
24 A. No, sir.  
25 Q. You're not worried about getting a snitch sheet?

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1 A. No, sir.  
2 Q. You know what a snitch sheet is, don't you?  
3 A. Yes, sir.  
4 Q. And no one has -- are you -- have you been moved  
5 since you were told you were going to testify?  
6 A. No, sir.  
7 Q. You're still in the same unit?  
8 A. Still in the same unit.  
9 Q. Same pod?  
10 A. Different pod.  
11 Q. Pardon?  
12 A. Different pod.  
13 Q. Oh, what pod did they switch you to?  
14 A. I got my ten years in and I got dorm eligibility.  
15 Q. Eligibility for what?  
16 A. To move to the dorms.  
17 Q. To the dorms?  
18 A. The dormitories.  
19 Q. Okay. So there are different classifications out  
20 there?  
21 A. Yes. You've got to become a different class to be  
22 moved to the dorm.  
23 Q. All right. Are you familiar with the classification  
24 system?  
25 A. Yes, sir.

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1 Q. Okay. What is it?  
2 A. I was a G-3, which if --  
3 Q. All right. What is a G-3?  
4 A. If you've got -- if you've got 50 years or more,  
5 you've got to have ten years calendar flat time on it to be  
6 moved to the dormitory or the --  
7 Q. And in the dormitory, you're not locked up?  
8 A. You're locked up, but you're not in a cell block.  
9 Q. Okay. What other classifications are there than  
10 G-3?  
11 A. You've got a G-4, which is medium custody; you've  
12 got a G-5, which is closed custody. Anything after that is  
13 seg.  
14 Q. All right. Five is -- five is --  
15 A. High security.  
16 Q. -- the worst? It's the high security?  
17 A. Yes, sir.  
18 Q. And four is just below that?  
19 A. Yes, sir.  
20 Q. And at some point in time, were you either a four or  
21 a five?  
22 A. I've never been a five; I've been a four.  
23 Q. Okay. And four is --  
24 A. Medium.  
25 Q. -- is what kind of security?

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1 A. Medium security.  
2 Q. And then you moved down to a three?  
3 A. Yes.  
4 Q. And now you're a two?  
5 A. Yes, sir.  
6 Q. What happens when you become a one?  
7 A. I'll never become a one.  
8 Q. You can't become a one?  
9 A. No, sir.  
10 Q. Why not?  
11 A. Because of my case, what I'm locked up for.  
12 Q. Well, what is the one? What level is one? Is it a  
13 trusty or what?  
14 A. That's a trusty.  
15 Q. Trusty?  
16 A. Trusty status.  
17 Q. So you can never be a trusty?  
18 A. No, sir.  
19 Q. Okay. And -- because of your classification?  
20 A. Yes, sir.  
21 Q. It must be hard to be doing 80 years when you're  
22 innocent?  
23 A. I don't have 80 years.  
24 Q. Fifty-five years, I'm sorry, 55 years.  
25 The -- your alleged victim was 80. You're only

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1 doing 55, though, correct?  
2 A. Yes, sir.  
3 MR. DURHAM: I'll pass the witness.  
4 REDIRECT EXAMINATION  
5 BY MR. SIMS:  
6 Q. When you asked Mr. Runnels yes -- or told  
7 Mr. Runnels yes, you wanted to know what he was going to do  
8 that morning --  
9 A. Yes, sir.  
10 Q. -- do you recall what it is he told you?  
11 MR. DURHAM: Asked and answered, Your Honor.  
12 THE COURT: Sustained.  
13 Q. (BY MR. SIMS) In regards to the question Mr. Durham  
14 asked you while ago, you indicated that Mr. Runnels did not  
15 specifically tell you what he was going to do.  
16 MR YONTZ: Mr. Runnels.  
17 Q. (BY MR. SIMS) Mr. Runnels, I'm sorry.  
18 A. Yes, sir.  
19 Q. Is that correct?  
20 A. Yes, sir.  
21 Q. And Mr. Durham indicated you gave a witness  
22 statement shortly after this all happened; is that correct?  
23 A. Yes, sir.  
24 Q. If you were to read that, would that help refresh  
25 your memory as to what might have actually been said?

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1 A. It could, yes, sir.  
2 Q. Okay. Mr. Williams, it's right here. If you would  
3 read starting right here. (Indicating)  
4 THE COURT: Read it to yourself.  
5 THE WITNESS: Okay. (Witness reading)  
6 Q. (BY MR. SIMS) Does that help refresh your memory  
7 about what Mr. Runnels told you?  
8 A. Yes.  
9 Q. What is it he told you, sir?  
10 A. He asked me, did I really want to know. And I told  
11 him no and he said -- then I said yes. He said that he was  
12 going to kill Mr. Wiley if he say something to him this  
13 morning. I said, "Man, you tripping." I said, "You're going  
14 to get a job change."  
15 Q. Now, you had known Mr. Runnels for some -- close to  
16 ten years; is that correct --  
17 A. Eight years.  
18 Q. -- at the time this occurred?  
19 A. About eight years, yes, sir.  
20 Q. Eight years?  
21 A. Yes, sir.  
22 Q. To you, had you always found him to be a truthful  
23 person and do what he said?  
24 A. Yeah, he was always a truthful person. He was a  
25 good person to me.

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1 Q. And do what he would tell you he would do?  
2 A. Yes, sir.  
3 MR. SIMS: Pass the witness.  
4 RECROSS-EXAMINATION  
5 BY MR. DURHAM:  
6 Q. Well, to you, has he been a violent person?  
7 A. Not since I've known him.  
8 Q. And you have known him eight years. He's been in  
9 prison eight years and not been violent, correct?  
10 A. Not to my knowledge, he hasn't.  
11 Q. Been a pretty good prisoner, as far as you know?  
12 A. Yes, sir.  
13 Q. But, of course, your memory is kind of on and off,  
14 isn't it?  
15 A. No, sir.  
16 Q. Well, did you forget about being in prison in  
17 Florida?  
18 A. No, sir. You didn't ask me about Florida.  
19 Q. No, sir, I asked you if you had been convicted of  
20 anything else and you said no. Now, what were you convicted  
21 in Florida for?  
22 A. A robbery.  
23 Q. I guess you were innocent of that also?  
24 A. No, sir, I didn't say that.  
25 Q. But you were convicted. Now you're telling the jury

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1 while ago when you said you didn't have any other felony  
2 convictions, that was incorrect?  
3 A. I thought you were talking about the state of Texas.  
4 Q. Oh. Well, do you have felony convictions other  
5 places than Florida?  
6 A. No, sir.  
7 Q. Just Florida and Texas?  
8 A. That's it.  
9 Q. Now, how did you get to Texas?  
10 A. I moved down here with my wife.  
11 Q. Why did you leave Florida?  
12 A. I wanted to change up.  
13 Q. What about that probation you did for beating a man,  
14 did you forget about that one, too?  
15 A. I got probation. It got taken off my record.  
16 Q. You went to court --  
17 A. That was self-defense.  
18 Q. -- again and it was taken off your record?  
19 A. Yes, sir.  
20 Q. It was not a final conviction?  
21 A. No, sir.  
22 Q. Oh, so it doesn't count?  
23 A. I guess.  
24 Q. Well -- all right. But you can truthfully say that  
25 Travis has been a pretty peaceable prisoner, hasn't he?

1 not him.  
2 Q. No, sir, I'm asking you, based on your observations  
3 over your eight-year relationship with Travis Runnels, you've  
4 had occasion to see him almost on a daily basis; is that  
5 correct --  
6 A. Yes, sir.  
7 Q. -- or incorrect?  
8 A. That's correct.  
9 Q. All right. And he's appeared to be a peaceable  
10 person?  
11 A. Yes, sir.  
12 Q. He's been a good prisoner?  
13 A. Yes, sir.  
14 Q. So for him to react, it would take more than just an  
15 unkind word, in your opinion?  
16 A. I imagine if someone put his hand on him, he would  
17 have fought back, or something like that, but -- but --  
18 Q. It would take something unusual, wouldn't it?  
19 A. I can't say that.  
20 Q. Well, based on your experience, do you have an  
21 opinion?  
22 A. I mean, for me, for me doing my time, I can --  
23 Q. No, sir.  
24 A. -- I can look over and walk away from things now,  
25 but when I first come in, I wouldn't have, but now I do.

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1 A. Yes.  
2 Q. Do people get in fights in prison?  
3 A. Every day.  
4 Q. You haven't seen him get in a fight in eight years,  
5 have you?  
6 A. No, sir.  
7 Q. He takes a lot of pushing to get his dander up,  
8 doesn't he?  
9 A. I can't say that.  
10 Q. Have you ever seen him lose his temper?  
11 A. Several times, but he didn't get in no fight over  
12 it.  
13 Q. He reined it in; is that correct?  
14 A. What do you mean? What are you trying to say?  
15 Q. Well, he -- he held his temper; he didn't go out and  
16 do anything about it?  
17 A. No, he didn't fight, if that's what you're trying to  
18 insinuate.  
19 Q. Well, okay. Did he later do something about it, put  
20 slop in their food or hide their shoe laces or something?  
21 A. No, sir.  
22 Q. Okay. So it would take more than just a little to  
23 push him to a point of doing something violent, in your  
24 opinion; is that correct?  
25 A. I don't know the -- about the pushing. I mean, I'm

1 Q. But you saw him walk away from things on many  
2 occasions, didn't you?  
3 A. I seen him walk away from things that he could have  
4 fought about, but he walked away from them.  
5 Q. Many times?  
6 A. Several times when I've been around.  
7 MR. DURHAM: Pass the witness.  
8 REDIRECT EXAMINATION  
9 BY MR. SIMS:  
10 Q. Are you with the defendant 24 hours day at the  
11 prison?  
12 A. No, sir.  
13 Q. So some of these things, you don't know whether he  
14 retaliated against anybody or not, do you?  
15 A. No, sir. I wasn't there to see it.  
16 Q. Tell the jury what you think about Mr. Wiley.  
17 A. He was a good -- he was a good guy. If he could  
18 help you, he would help you. If you had a problem, you could  
19 go to him and talk to him about it. He would see what he  
20 could do for you. I worked there like 12 days, and when I  
21 wanted to leave because I liked cutting hair, he was trying to  
22 get me to stay to cut hair -- I mean to stay and work, said I  
23 was a good worker, but I told him I didn't like that, I liked  
24 to cut hair. So when I got my line class, I left to go cut  
25 hair.



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1 Q. In fact, you even had an opportunity to talk to  
2 Mr. --  
3 MR. DURHAM: Objection, leading.  
4 Q. (BY MR. SIMS) Did you ever have an opportunity to  
5 talk to Mr. Wiley about a problem?  
6 A. Yes, sir.  
7 Q. Did he get that resolved?  
8 A. Yes, he got it resolved.  
9 Q. It wasn't any kind of physical altercation problem,  
10 though, was it?  
11 MR. DURHAM: That's -- that's a leading  
12 question.  
13 THE COURT: Sustained. Don't lead the witness,  
14 please.  
15 MR. SIMS: Pass the witness, Your Honor.  
16 RECROSS-EXAMINATION  
17 BY MR. DURHAM:  
18 Q. Mr. Williams, how long did you know Mr. Wiley?  
19 A. I knowed him about 12 days, when I was working in  
20 the boot factory.  
21 Q. Twelve days. And in that 12 days, y'all had a good  
22 relationship?  
23 A. Yes, sir.  
24 Q. Was he -- were you working in the boot factory?  
25 A. He was over me.

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1 Q. He was over you at the boot factory?  
2 A. Yes.  
3 Q. But you transferred out of there?  
4 A. Yes, sir.  
5 Q. For a better job?  
6 A. Yes, sir.  
7 MR. DURHAM: Okay. No further questions.  
8 MR. SIMS: Nothing further.  
9 THE COURT: Okay, Mr. Williams, you can step  
10 down.  
11 THE WITNESS: Yes, sir.  
12 THE COURT: Call your next witness.  
13 MR. SIMS: William Gilchrist.  
14 THE COURT: Mr. Gilchrist, if you would come  
15 right around here, please, sir, and take a seat up there on  
16 the witness stand.  
17 Pull that up a little bit and kind of  
18 towards -- yeah, yeah, right there. That's good. Thanks.  
19 Go ahead.  
20 WILLIAM GILCHRIST,  
21 having been first duly sworn, testified as follows:  
22 DIRECT EXAMINATION  
23 BY MR. SIMS:  
24 Q. State your name, please, sir.  
25 A. William Gilchrist.

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1 Q. Where are you residing, sir?  
2 A. Clements Unit.  
3 Q. Max unit for the Texas Department of Criminal  
4 Justice; is that correct?  
5 A. Yes, sir.  
6 Q. You're in for an aggravated robbery with a deadly  
7 weapon; is that correct?  
8 A. Yes, sir.  
9 Q. On a 59-year sentence?  
10 A. Yes, sir.  
11 Q. Has anyone promised you anything in regards to your  
12 testimony here today?  
13 A. No, sir.  
14 Q. Do you know Travis Trevino Runnels?  
15 A. Yes, sir.  
16 Q. See him here in the courtroom today?  
17 A. Yes, sir.  
18 Q. Point him out and describe the clothing he's  
19 wearing, please.  
20 A. Red shirt and some slacks.  
21 Q. How did you come to know this defendant?  
22 A. Just through -- just kicking it with him on the  
23 Clements Unit.  
24 Q. Can I ask you to speak up just a little bit?  
25 A. Yes, sir, yes, sir.

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1 Q. That's way better. Thank you.  
2 You knew him how, sir?  
3 A. Just, you know, playing basketball, barber shop, all  
4 that type of stuff.  
5 Q. On January 29th of 2000 (sic), where were you  
6 working at, sir?  
7 A. The boot factory.  
8 Q. Is there just one boot factory out there?  
9 A. Yes, sir.  
10 Q. On January 29th of 2003, what particular job did you  
11 have there?  
12 A. I was working in the lasting cage.  
13 Q. Explain just real briefly to the jury what that  
14 means.  
15 A. It's where you put the uppers on the rack, and  
16 then -- it goes from one machine to another machine to put the  
17 sole on, and I was at the beginning of the process.  
18 Q. The boot factory makes all the boots and all the  
19 tennis shoes for the prison system in the state; is that  
20 correct?  
21 A. Yes, sir.  
22 Q. That's your understanding?  
23 About how many people are out there working on  
24 a shift?  
25 A. About 50, somewhere around there.

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1 Q. About 50 inmates, and then there's some other people  
2 there, correct?  
3 A. Yeah.  
4 Q. Correctional officers, and then also civilian  
5 employees that are in charge of the boot factory?  
6 A. Yes, sir.  
7 Q. Is that right?  
8 In regard to that, do you know Mr. Wiley, Stan  
9 Wiley?  
10 A. Yes, sir.  
11 Q. How did you know him, sir?  
12 A. From -- he was an officer at first before he went to  
13 the boot factory. And by him being an officer, we had contact  
14 on the pods and stuff.  
15 Q. And he would -- what is the word you used before he  
16 was in the boot factory? I didn't quite understand.  
17 A. Correctional officer.  
18 Q. Okay. He was a CO?  
19 A. Yes, sir.  
20 Q. Correctional officer.  
21 And then he changed jobs and went to the boot  
22 factory as a civilian employee?  
23 A. Yes, sir.  
24 Q. Is that your understanding?  
25 A. Yes, sir.

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1 Q. Okay. Now, did you, in fact, turn out for work on  
2 the 29th in 2003?  
3 A. Yes, sir.  
4 Q. Went to the boot factory?  
5 A. Yes.  
6 Q. About what time did that take place?  
7 A. The turn out, when we first turned out?  
8 Q. Yes, sir.  
9 A. About 4:45, five o'clock, in that time frame.  
10 Q. And then about what time did you head to the boot  
11 factory?  
12 A. About 5:15, after everybody had been rostered in.  
13 Q. Now, did you see the defendant at the boot factory  
14 that day?  
15 A. Yes, sir.  
16 Q. Did you see Mr. Wiley at the boot factory that day?  
17 A. Yes, sir.  
18 Q. Explain your relationship, or tell the ladies and  
19 gentlemen of the jury about Mr. Wiley.  
20 A. Well, Mr. Wiley was a -- he was an all right  
21 officer, tended, you know what I'm saying, to be a little  
22 aggressive sometimes, but more or less, he come to do his job.  
23 Q. If you did your job, did you ever have a hassle with  
24 him?  
25 A. No, sir.

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1 Q. Based on your observation -- how long had you been  
2 working at the boot factory out there?  
3 A. About a year and a half.  
4 Q. Did you ever work the same shift with Mr. Wiley  
5 until that week?  
6 A. That was the first time.  
7 Q. Okay. Now, they had just changed some shifts at the  
8 boot factory, correct?  
9 A. Yes, sir.  
10 Q. Eliminated one, didn't they?  
11 A. Yeah, second shift.  
12 Q. And combined them -- combined it with the first  
13 shift?  
14 A. Yes, sir.  
15 Q. That's when Mr. Wiley went to work --  
16 A. Yes, sir.  
17 Q. -- on the same shift you were; is that correct?  
18 A. That's correct.  
19 Q. About how long do you recall it being that y'all had  
20 been working together?  
21 A. About -- almost a week.  
22 Q. And when did Mr. Runnels go to work with you out  
23 there, the first time you remember?  
24 A. I don't exactly know the date or nothing like that,  
25 but I think he was out there like about three or four days.

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1 Q. He had only been out there three or four days?  
2 A. Like -- yeah, yeah.  
3 Q. Now, during that day, shortly after getting to work  
4 at the boot factory, did you see Mr. Wiley having a discussion  
5 with someone?  
6 A. In the -- what you mean, when we first went out  
7 there?  
8 Q. Yeah, shortly after you got out there, yes, sir.  
9 Q. Well, he was, you know, conversating with a lot of  
10 people.  
11 Q. Okay. Did you wind up talking to Mr. Runnels that  
12 day?  
13 A. Yes, sir.  
14 Q. When did that first occur?  
15 A. When we first got out there in the boot factory.  
16 Q. About what time would that have been?  
17 A. About 5:20.  
18 Q. So you get out to the boot factory, but you don't  
19 immediately start working; is that correct?  
20 A. No, no, sir.  
21 Q. What are the inmates doing until you start work once  
22 you're out there?  
23 A. Well, everybody go get some coffee to jump off, you  
24 know what I'm saying. But I'm the head of the process, so  
25 everybody got to wait until I start the process and then it

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1 will work its way on down. But usually, they just standing  
2 around waiting on the racks to get to them.  
3 Q. So once things start moving through the system, then  
4 the others will start working as the work gets to them?  
5 A. Right.  
6 Q. Is that what you're telling me?  
7 A. Yes, sir.  
8 Q. Okay. I'm going to show you what's been marked for  
9 identification purposes as State's 50. Are you able to  
10 recognize that, sir?  
11 A. Yes.  
12 Q. Can you tell the ladies and gentlemen of the jury  
13 basically what that represents?  
14 A. The layout of the boot factory. The layout of the  
15 boot factory.  
16 MR. DURHAM: Your Honor, may I move where I can  
17 follow the testimony?  
18 THE COURT: Sure.  
19 Q. (BY MR. SIMS) If you can - you're able to recognize  
20 this; is that correct?  
21 A. Yes, sir.  
22 Q. I'm just going to have you go ahead and stay up  
23 there, if that's all right.  
24 What's along this wall over here? (Indicating)  
25 A. That's where the bathroom --

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1 Q. Just start up here and work your way down.  
2 A. That's the storage room, you got Mr. Williams'  
3 office coming down, then you got a little closet as you come  
4 down, and then the bathroom stalls, and then you got the  
5 maintenance shop coming on down.  
6 Q. Down here; is that correct?  
7 A. Yes, sir.  
8 Q. Now, the doors are here and here; is that correct?  
9 (Indicating)  
10 A. Right.  
11 Q. Okay. Now, where were you working on this  
12 particular day?  
13 A. I worked further up, go up, go up, go up. Yeah, go  
14 up -- keep going. Right there in the boxing area.  
15 Q. In this --  
16 A. That's my assigned job right there. But in them  
17 little bins right there. (Indicating)  
18 Q. These --  
19 A. No, right there. No, come down. No, keep coming  
20 down, keep coming. Now go over this way. No, right there.  
21 (Indicating)  
22 Okay. You see where the 30 at, with the boxes?  
23 Q. Yes.  
24 A. Now go straight to your right, this way. Right  
25 there. That's -- yeah. (Indicating)

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1 Q. Okay. So you were working in this area here?  
2 (Indicating)  
3 A. Right.  
4 Q. Okay. I'm going to -- if it's all right, I'll put  
5 your initials right here. Is that all right?  
6 A. Uh-huh.  
7 Q. WG?  
8 A. Uh-huh.  
9 Q. That's where you were working --  
10 A. Yes, sir.  
11 Q. -- correct?  
12 Now, approximately where was Mr. Wiley that  
13 day?  
14 A. He was -- he was everywhere.  
15 Q. Walking everywhere --  
16 A. Walking everywhere.  
17 Q. -- initially? Okay.  
18 Now, you came into contact with the defendant  
19 shortly after getting to work while y'all were drinking  
20 coffee, or before you started working?  
21 A. Right.  
22 Q. What happened at that point, sir?  
23 A. When we first came in, Runnels pulled me and another  
24 guy aside and said that he was getting tired of the boot  
25 factory, he didn't want to be out there no more. And he said,

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1 "I'm going to do something to either get you out of the boot  
2 factory or you can get shipped." And I asked him what it was.  
3 And then he said he was going to hold Williams  
4 hostage in the office when the other officers leave. I told  
5 him why he want to do that. He said, well, it's the only way  
6 he feels that he can get off the farm or get out of the boot  
7 factory.  
8 Q. Who is Williams?  
9 A. Who is who?  
10 Q. You said he was going to hold Williams hostage.  
11 A. Oh, Mr. Williams, that's the plant manager.  
12 Q. I'm sorry, that's -- the plant manager at the boot  
13 factory?  
14 A. Yes, sir.  
15 Q. What else did he tell you?  
16 A. That I can use this information to either get off  
17 the farm or get out of the boot factory myself.  
18 Q. What happened then?  
19 A. We all went our separate ways.  
20 Q. Did y'all start work --  
21 A. Yeah.  
22 Q. -- shortly after that?  
23 A. Yes, sir.  
24 Q. Did you wind up talking to him again later --  
25 A. Yes, sir.

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1 Q. -- meaning Mr. Runnels?  
2 A. Yes, sir.  
3 Q. About how much later?  
4 A. Approximately about 45 minutes, somewhere, to an  
5 hour.  
6 Q. What happened at that point?  
7 A. Well, I was sitting in the back in the boxing area  
8 over there, and he came -- was sitting on the table, and he  
9 came up and he said that Wiley was giving him a hard time.  
10 Q. Then what happened?  
11 A. And then he said, "I'm going to go take the trash  
12 out and when I come back I'm going to ask him what's up."  
13 Q. Okay. Did you ever see the defendant come back from  
14 taking out the trash?  
15 A. Yes, sir.  
16 Q. What happened then?  
17 A. He approached Mr. Wiley and they had a little  
18 conversation. I couldn't hear it all, but he was like, you  
19 know, why you keep jigging at me, why you keep pointing me  
20 out. And Mr. Wiley said, "Well, you're a janitor. It's your  
21 job to take the trash out. Those two inmates right there,  
22 they're assigned to do something else, and that's their job.  
23 If I ask you take out the trash, take out the trash."  
24 Q. Okay. And is that basically how all the other  
25 supervisors that you've dealt with handle things?

1 Q. What happened then?  
2 A. I told him to ask this dude, Mr. Blue -- I don't  
3 know his real name, but we call him Blue. And he asked him  
4 could he use his knife, and Mr. Blue said, no, he was busy at  
5 the time.  
6 MR. DURHAM: I'm going to object to what  
7 Mr. Blue said. If he said anything, it would be hearsay --  
8 THE COURT: Sustained.  
9 MR. DURHAM: -- unless he was present at the  
10 conversation.  
11 Q. (BY MR. SIMS) Did Mr. Blue let him use the knife?  
12 A. Not the first time.  
13 Q. Did it happen again?  
14 A. Yes, sir.  
15 Q. And you saw it happen, or heard?  
16 MR. DURHAM: Your Honor, first, that's leading;  
17 second, it would be hearsay unless he was there and heard the  
18 conversation. It's speculation and conjecture of what the  
19 conversation was.  
20 THE COURT: Rephrase the question, please.  
21 Q. (BY MR. SIMS) Did you observe it happen again?  
22 A. No.  
23 MR. DURHAM: Objection as to what --  
24 Q. (BY MR. SIMS) Okay. Did --  
25 MR. DURHAM: -- happened, Your Honor.

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1 A. More or less --  
2 MR. DURHAM: Objection --  
3 A. -- yes, sir.  
4 MR. DURHAM: -- Your Honor. What someone else  
5 does is not material.  
6 THE COURT: Sustained.  
7 Q. (BY MR. SIMS) What happened after that  
8 conversation? Let me ask this: Was there any kind of --  
9 anything other than a verbal discussion that you saw?  
10 A. That was it, just a verbal discussion.  
11 Q. What happened after that?  
12 A. Runnels walked off.  
13 Q. What did you do then?  
14 A. I went back to work.  
15 Q. Okay. What's the next thing that you're aware of  
16 about Mr. Runnels doing that day?  
17 A. He asked me could I get him a knife and I told him  
18 no, they all had been checked out already. I said, "But you  
19 can go around the corner and ask this Mexican dude if you want  
20 to use his knife."  
21 He walked off and came back and he said he  
22 wouldn't give it to him.  
23 Q. And what -- what did he do then with you again at  
24 that point?  
25 A. Asked me how he can get another knife.

1 THE COURT: Sustained.  
2 Q. (BY MR. SIMS) What's the next thing you saw happen?  
3 A. I went to do my work. I didn't know that he had got  
4 the knife. I don't know when he got the knife.  
5 Q. Okay.  
6 A. But I asked Mr. Runnels, I said, "Are you all  
7 right?" I said, just playing with him, I said, "You take your  
8 medication?" And, you know, he just --  
9 MR. DURHAM: Nonresponsive to the question and  
10 also --  
11 THE COURT: Sustained.  
12 MR. DURHAM: -- hearsay.  
13 Q. (BY MR. SIMS) When is the next time you saw  
14 Mr. Runnels?  
15 A. The next time I saw Mr. Runnels is when he was  
16 walking away with the knife in his hand.  
17 Q. Walking away from what?  
18 A. Mr. Wiley.  
19 Q. Did you see Mr. Runnels before that?  
20 A. No.  
21 Q. Okay. You said -- when is it you asked him a  
22 question? You said you had asked him a question.  
23 A. I asked him a question when I seen him on the wall  
24 with a broom in his hand, and I asked him, "You all right?"  
25 And he said -- he was kind of mumbling, like, "Yeah, yeah, I'm

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1 all right." And I walked off.  
2 Q. Is this before or after you saw him walking away  
3 from Mr. Wiley?  
4 A. This was before.  
5 Q. Okay. Approximately how much earlier before?  
6 A. Maybe like 20 minutes, 20 or 30 minutes.  
7 Q. And when you saw the defendant ask Mr. Blue for the  
8 knife --  
9 MR. DURHAM: That's a leading question and also  
10 calls for a hearsay response because he doesn't --  
11 THE COURT: Please lower your voice, and your  
12 objection is sustained.  
13 MR. DURHAM: Well, I'm sorry. It's just --  
14 THE COURT: Do not --  
15 MR. DURHAM: -- the same question that was  
16 asked before.  
17 THE COURT: Do not lead the witness, please.  
18 Q. (BY MR. SIMS) How much time elapsed from the time  
19 you saw the defendant talking to Mr. Blue until -- let me  
20 rephrase that.  
21 How much time elapsed from the time you saw  
22 Mr. Wiley and the defendant having their discussion to the  
23 time you saw the defendant talking to Mr. Blue?  
24 A. About 15 -- about 15 to 20 minutes.  
25 Q. And then after that is when you talked to

1 Q. Is this the lasting area here?  
2 A. Yeah.  
3 Q. Okay. So you were facing out this way?  
4 (Indicating)  
5 A. Yes, sir.  
6 Q. And when you raised up, you saw what?  
7 A. I saw -- well, I heard a noise --  
8 Q. Okay.  
9 A. -- and I turned.  
10 MR. DURHAM: Nonresponsive. The question was  
11 what he saw.  
12 THE COURT: Sustained.  
13 Q. (BY MR. SIMS) You heard a noise, what did you do?  
14 MR. DURHAM: Leading question.  
15 THE COURT: Approach the bench, please.  
16 (At the bench, on the record)  
17 THE COURT: I'm going to instruct you to quit  
18 leading the witness. You're putting me in a position to  
19 sustain the objection every single time you do it.  
20 MR. SIMS: To repeat what the answer said and  
21 then ask what -- what did you do after that, is leading?  
22 THE COURT: Yes, sir. If you repeat the answer  
23 that is given, that is an act of bolstering the witness.  
24 That's another objection.  
25 Just ask a question and let the guy answer it,

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1 Mr. Runnels again?  
2 A. Right.  
3 Q. After having that conversation with him, then when  
4 is the next time you saw the defendant?  
5 A. When he was walking away with the knife.  
6 Q. Where was -- where was he walking from?  
7 A. From behind me, because I had my head down and I was  
8 putting --  
9 MR. DURHAM: Objection, nonresponsive after  
10 "from behind."  
11 THE COURT: Sustained.  
12 Q. (BY MR. SIMS) What were you doing at the time that  
13 you saw him?  
14 A. I was putting insoles on the racks, getting ready to  
15 come to the heel last, and I was -- had my head down, but I  
16 was putting the soles on the bottom of the molds.  
17 Q. Okay. On this chart, where would that put you?  
18 A. Right there where you've got the "WG" at.  
19 Q. There at your work station?  
20 A. Right.  
21 Q. And you're facing which way?  
22 A. I'm facing toward the lasting area, facing this way.  
23 (Indicating)  
24 Q. Facing this way? (Indicating)  
25 A. Right.

1 please.  
2 MR. DURHAM: Also, Your Honor, his -- what you  
3 heard was an objectionable, nonresponsive answer that he based  
4 a question on.  
5 THE COURT: Well --  
6 MR. SIMS: That's fine. I understand, Your  
7 Honor.  
8 (Open court)  
9 Q. (BY MR. SIMS) You had your head down and were  
10 working. What happened then?  
11 A. Say it again.  
12 Q. You had your head down and you were working. What  
13 happened then?  
14 A. I heard a noise behind me.  
15 Q. What did you do then, sir?  
16 A. I turned to face Mr. Wiley.  
17 Q. About how far was Mr. Wiley from you?  
18 A. About as close as he is right there in the black  
19 shirt.  
20 Q. Okay. Say ten feet?  
21 A. Yes, sir.  
22 Q. Would that be a fair enough estimate?  
23 A. Yes, sir.  
24 Q. Were you facing Mr. Wiley?  
25 A. When I turned around, yeah, I was facing Mr. Wiley.

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1 Q. And what else did you see at that point?  
 2 A. I saw -- Mr. Wiley was holding his neck. And you  
 3 know how when you scratch yourself you see white, and then all  
 4 of a sudden blood start coming.  
 5 Q. Where did you see that? Where did you see that  
 6 incident that day?  
 7 A. Behind me in the lasting area, right there.  
 8 (Indicating)  
 9 Q. No, the white and then the blood coming, where was  
 10 that at?  
 11 A. In that area right there where you got "WG" at.  
 12 Q. On whom, sir? On whom? On whom?  
 13 A. From whom? I don't know because I -- I don't  
 14 understand the question, what you're trying to say.  
 15 Q. You said you saw white and you saw somebody  
 16 bleeding. Who did you see bleeding?  
 17 A. Mr. Wiley.  
 18 Q. Okay. What else -- did you see anything else around  
 19 Mr. Wiley at that point?  
 20 A. Not at the time, until I followed Mr. Wiley's eyes.  
 21 That's when I turned back this way. (Indicating)  
 22 Q. Turned back to your left?  
 23 A. Turned back to my left.  
 24 Q. Which would be turning --  
 25 A. Towards 24 right there. (Indicating)

1 are?  
 2 A. Yes, sir.  
 3 Q. Do they fairly and accurately show what they are --  
 4 A. Yes, sir.  
 5 Q. -- in this photograph?  
 6 A. Yes, sir.  
 7 MR. SIMS: Your Honor, I'll offer State's  
 8 Exhibit 51.  
 9 MR. DURHAM: No objection.  
 10 THE COURT: Exhibit is received.  
 11 Q. (BY MR. SIMS) What is State's Exhibit No. 51?  
 12 A. Those are the -- those are the knives that they give  
 13 us in the boot factory. We check them out when we first get  
 14 there. We have to turn in our ID and get one of these knives.  
 15 Q. Are there only a certain number of those that are --  
 16 MR. DURHAM: Leading question.  
 17 THE COURT: Go ahead.  
 18 I'm not going to rule on that at this time. I  
 19 will have a discussion with the lawyers during the lunch hour.  
 20 Thank you.  
 21 Q. (BY MR. SIMS) How do you wind up with one of those?  
 22 A. You have to go by the maintenance room. There's  
 23 going to be an officer -- well, one of the people that's in  
 24 free world clothes that work in the boot factory, they're  
 25 going to ask you what you want. You can either get a knife, a

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1 Q. Turning down this way? (Indicating)  
 2 A. Right.  
 3 Q. Okay. What did you see then?  
 4 A. Mr. Runnels was walking away with the knife.  
 5 Q. This defendant?  
 6 A. Yes, sir.  
 7 Q. Could you tell what kind of knife it was?  
 8 A. The kind of knife that we have in the boot factory.  
 9 I don't know the name of it. It's the regular knife that they  
 10 use.  
 11 Q. It was one of the equipment --  
 12 A. Right.  
 13 Q. -- pieces of equipment used in the boot factory?  
 14 A. Yes, sir.  
 15 Q. You recognized it as that?  
 16 A. Yes, sir.  
 17 MR. SIMS: May I approach, Your Honor?  
 18 THE COURT: Sure.  
 19 Q. (BY MR. SIMS) I'll show you State's Exhibit No. 51.  
 20 Are you able to recognize that, sir?  
 21 A. Yes, sir.  
 22 Q. Okay. Did the instrument you saw look like --  
 23 MR. DURHAM: Leading question, Your Honor.  
 24 THE COURT: Sustained.  
 25 Q. (BY MR. SIMS) Are you able to recognize what these

1 staple gun, a staple puller, any kind of instrument that  
 2 you're using in the boot factory.  
 3 You have to turn in your ID and then they will  
 4 hand you your equipment.  
 5 Q. Can anyone just go get one of those?  
 6 A. Yes, sir.  
 7 Q. But you have to do the ID process to get it?  
 8 A. Yes, sir.  
 9 Q. Is the instrument that you saw the defendant with  
 10 similar to those?  
 11 A. Yes, sir.  
 12 Q. What happened next?  
 13 A. Next on what?  
 14 Q. After you saw Mr. Wiley bleeding -- as a matter of  
 15 fact, where did you see him bleeding from, what part of his  
 16 body?  
 17 A. His neck.  
 18 Q. And then you said you had seen Mr. Runnels walking  
 19 away?  
 20 A. Yes, sir.  
 21 Q. Then what happened?  
 22 A. Mr. Wiley ran toward the office area and I ran  
 23 toward the boxing area.  
 24 Q. Why did you go towards the boxing area?  
 25 A. That was my only line of flight.

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1 Q. What happened after that, sir?

2 A. I talked to a couple of dudes, told them what had

3 happened, and I grabbed my coat, my cup, and started

4 proceeding to the door area because I knew the officers was

5 coming eventually.

6 MR. SIMS: Pass the witness, Your Honor.

7 THE COURT: Okay. Let's recess for lunch at

8 this point.

9 Folks, I'll ask you to be back here in the jury

10 room at 1:15, please.

11 (Jury left the courtroom)

12 MR. DURHAM: Randall, can you approach for a

13 moment?

14 THE COURT: I want the jury out of here before

15 any discussion.

16 MR. DURHAM: Well, this was about --

17 THE COURT: Just wait five seconds.

18 MR. DURHAM: I was going to request that he

19 review his statement during the recess and save us some time.

20 THE COURT: Oh, sure, okay.

21 MR. DURHAM: He has two statements.

22 THE COURT: Okay. Let him have a copy of

23 those. Who's got a copy of those two statements?

24 MR. SIMS: If you don't mind it being marked

25 up, I'll give him mine.

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1 MR. DURHAM: It's for him to read, not for me.

2 I'm not going to read your notes.

3 There are two statements, correct?

4 MR. GILCHRIST: Yes, sir.

5 THE COURT: All right. During lunch,

6 Mr. Gilchrist, if you would look over those so that they can

7 visit with you about them afterwards.

8 (Pause)

9 THE COURT: Okay. When we come back from

10 lunch, please stop leading the witness.

11 MR. SIMS: Your Honor, my understanding, I'm

12 not trying to argue with the Court, but repeating part of the

13 answer, I don't think makes the question leading.

14 THE COURT: I don't care what you think, then,

15 Mr. Sims, if I tell you not to do it, then it's objectionable,

16 and you can talk to the appellate court about it, okay? So if

17 I say something, whether you agree or disagree, you've got to

18 follow my rules while we're in here, and that's the way we're

19 going to try the case.

20 MR. SIMS: I understand that, Your Honor.

21 THE COURT: Thank you.

22 (Recess)

23 (At the bench, on the record)

24 MR. DURHAM: Your Honor, during the noon

25 recess, the State has indicated they plan to be through by

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1 noon tomorrow. Our subpoenas were issued for Monday and most

2 of them -- or all of them at this point in time are in Dallas.

3 We do have one subpoena that we're trying to serve locally.

4 But we can't be prepared to proceed until Monday.

5 MR. SIMS: And I don't know that we'll be

6 through by noon, Judge, but I really think we will be through

7 by 5:00 tomorrow, without any problem.

8 THE COURT: Are there any that you can move up?

9 I mean, this whole deal is necessitated by your tactical

10 move --

11 MR. DURHAM: I thought it would surely take

12 them three days with the -- with the future dangerousness

13 testimony they were going to put on, Your Honor, even assuming

14 the plea of guilty.

15 MS. HAMILTON: We might be able to --

16 THE COURT: Well, Mr. Sims works quickly.

17 MS. HAMILTON: -- get the one that --

18 MR. SIMS: I'm trying. I cut out about ten

19 witnesses.

20 MR. DURHAM: That's the -- he hasn't been

21 served yet.

22 MS. HAMILTON: Right, but he should be --

23 THE COURT: What's his name?

24 MR. SIMS: Do you want me to step away from --

25 THE COURT: No, no.

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1 MR. DURHAM: He's - he was the warden at

2 Clements --

3 THE COURT: Oh. I thought you said --

4 MS. HAMILTON: He should be easy to serve.

5 MR. DURHAM: -- at the time this happened.

6 THE COURT: -- doctor somebody.

7 MR. DURHAM: Well, he is a doctor. He's got

8 his doctorate in --

9 THE COURT: Okay.

10 MR. DURHAM: -- penology or --

11 THE REPORTER: In what, I'm sorry?

12 MS. HAMILTON: Penology.

13 MR. SIMS: Have you got the spelling on that

14 word, Jill?

15 THE COURT: Okay.

16 THE REPORTER: Penology.

17 MR. DURHAM: P-e-n-a-l-o-g-y. (sic)

18 THE COURT: Okay. Well, what we'll do is -- I

19 mean, try to get him moved up here.

20 MR. DURHAM: We'll try and get him served and

21 get him here. I'll make it instantner.

22 THE COURT: Okay. And what we'll do is, we'll

23 just -- we'll just mosey as far as we can.

24 MR. DURHAM: Okay. I just wanted to alert you.

25 I didn't want to stand up when they quit and say, "Oh."

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1 THE COURT: I gotcha.  
2 MS. HAMILTON: And I'm going to call Kathy  
3 and see if she can get them here.  
4 MR. SIMS: And we let them know that as soon as  
5 we sat down and kind of figured out what --  
6 THE COURT: Yeah. Okay.  
7 MR. SIMS: Because we did, we dropped a bunch  
8 of people.  
9 THE COURT: We'll get as far as we can, then  
10 we'll come back.  
11 (Open court)  
12 THE COURT: Bring the jury in.  
13 (Jury entered the courtroom)  
14 THE COURT: Okay, Mr. Durham.  
15 CROSS-EXAMINATION  
16 BY MR. DURHAM:  
17 Q. Mr. Gilchrist, you've had an opportunity during the  
18 noon recess to review your two statements, have you not?  
19 A. Yes, sir.  
20 Q. Well, they're really pretty different, aren't they?  
21 A. More or less.  
22 Q. Well, in your first statement on the 29th, which was  
23 the same day the incident occurred, you don't say anything  
24 whatsoever about Travis, do you?  
25 A. No, I don't.

1 A. Some months.  
2 Q. And you knew Mr. Wiley how long?  
3 A. For some years.  
4 Q. You knew him years?  
5 A. Yes, sir.  
6 Q. Okay. And how long have you been at the Clements  
7 Unit?  
8 A. Since '94.  
9 Q. Okay. And you're serving how long a sentence?  
10 A. Fifty-nine years.  
11 Q. And that was for what?  
12 A. Aggravated robbery.  
13 Q. What is aggravated robbery?  
14 A. With a deadly weapon. I tried to rob somebody with  
15 a deadly weapon.  
16 Q. What was the deadly weapon?  
17 A. A shotgun.  
18 Q. A shotgun?  
19 A. Yes, sir.  
20 Q. Okay. Now, during the time you knew Travis -- when  
21 you say "months," would that be a month, two months, four  
22 months, or just how long did you know him?  
23 A. About nine months, ten months.  
24 Q. Nine months or ten months. And you knew him well  
25 enough that he trusted you and confided all this stuff in you?

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1 Q. And you didn't see anything or hear anything that  
2 day, according to your statement of the 29th; is that correct?  
3 A. That's true.  
4 Q. But overnight, you remembered a lot of stuff  
5 apparently?  
6 A. Not necessarily. I just didn't want to say it the  
7 first time.  
8 Q. Oh, you didn't want to say it the first time. Well,  
9 what -- what inducement did you get to say it the second time?  
10 A. I just thought about what had happened.  
11 Q. And -- well, did you go to the officials and say, "I  
12 remembered some stuff"?  
13 A. No. They called me out.  
14 Q. They called you out and interrogated you again?  
15 A. Yes, sir.  
16 Q. Uh-huh. Speaking of officials, I noticed during the  
17 noon recess we had some new spectators come. Do you recognize  
18 those people as being guards at the penitentiary?  
19 A. Yes, sir.  
20 Q. And they're the ones staring at you now. What did  
21 they promise you for your testimony?  
22 A. They didn't promise me nothing.  
23 Q. Nothing? Are you still at the Clements Unit?  
24 A. Yes, sir.  
25 Q. Uh-huh. And how long have you known Travis?

1 A. Yes, sir.  
2 Q. Okay. During that time, did you ever see him engage  
3 in any violent act?  
4 A. No, sir.  
5 Q. Did you ever hear him threaten anyone?  
6 A. No, sir.  
7 Q. Okay. So did he seem to be a good prisoner?  
8 A. Yes, sir.  
9 Q. Okay. Do you know what his classification was?  
10 A. We was both on minimum custody.  
11 Q. He was on minimum custody?  
12 A. Yes, sir.  
13 Q. Which meant he -- the authorities considered him  
14 trustworthy?  
15 A. Yes, sir.  
16 Q. So apparently he didn't have a history, as far as  
17 you knew, of any violent acts?  
18 A. Yes, sir.  
19 Q. Okay. Now, in your second statement -- do you have  
20 a copy of it there with you? That's the statement of the  
21 30th.  
22 A. Yes, sir.  
23 Q. Okay. In that statement, you relate word for word a  
24 conversation, don't you?  
25 A. Yes, sir.



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1 Q. Okay. And would you share that with me and the  
2 jury? When he took out the trash and he came back and he  
3 stopped where you were, and what do you in your statement say  
4 he said?  
5 A. He said -- you want it word for word?  
6 Q. Yes, sir. Do you find that?  
7 A. Yeah. "He walked up to me and said, 'I don't know  
8 why he keeps fucking with me. When I get through, I'm going  
9 to ask him.' When he came back, he walked up to Mr. Wiley and  
10 said, 'Why do you keep fucking with me? All those white boys  
11 are standing there doing nothing and you pick me out.'"  
12 Q. Okay. And did you hear him say anything else to  
13 Wiley later on in your statement?  
14 A. No, sir.  
15 Q. You didn't say -- did you hear what Wiley's response  
16 was?  
17 A. Yes, sir.  
18 Q. And what did he tell him?  
19 A. Mr. Wiley said, "You just do what I say." Runnels  
20 said, "You need to quit fucking with me," and Mr. Wiley said  
21 again, "Just do what I say." Runnels said, "Okay, I'll do  
22 what you say," and he walked off.  
23 Q. Okay. They had some problems, didn't they?  
24 A. Well, from what I -- from what I heard, that  
25 Mr. Wiley had messed with him the day before.

1 MR. DURHAM: Okay. May I approach --  
2 THE COURT: Sure.  
3 MR. DURHAM: -- to look at this?  
4 Q. (BY MR. DURHAM) And this -- this is the type knife  
5 that's used out there?  
6 A. Yes, sir.  
7 Q. You don't know which one if any of these were used?  
8 A. No, sir.  
9 Q. No, you don't. It's just the type of knife that's  
10 used out there?  
11 A. Yes, sir.  
12 Q. It doesn't seem to have a sharp point on it?  
13 A. No, sir.  
14 Q. How are they sharpened?  
15 A. With a sharpening stone.  
16 Q. Who sharpens them?  
17 A. The inmate who has it.  
18 Q. There at the work station?  
19 A. Yes, sir.  
20 MR. DURHAM: May I publish this to the jury,  
21 Your Honor?  
22 THE COURT: Sure.  
23 MR. DURHAM: I want to look at those things,  
24 please.  
25 Your Honor, we need to approach for me to ask a

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1 Q. All right. Messed with him the day before?  
2 A. That's what I heard. I didn't see that.  
3 Q. Okay. And -- now, these knives, they're just loose  
4 there in the place?  
5 A. No. Each individual is assigned to a knife when he  
6 turns in his ID.  
7 Q. Okay. And they pass them from hand to hand as they  
8 need to?  
9 A. Yes, sir.  
10 Q. So if I sign -- if I'm a prisoner and I sign out for  
11 a knife, I can let another prisoner use it or just whatever?  
12 I'm not responsible for that knife?  
13 A. You're not supposed to, but they do.  
14 Q. They do it all the time?  
15 A. (Witness nods head up and down)  
16 Q. Is that true or untrue?  
17 A. That's true.  
18 Q. Okay. And the knife that --  
19 MR. DURHAM: Was that exhibit admitted?  
20 MR. SIMS: Pardon?  
21 MR. DURHAM: The picture of the knives?  
22 MR. SIMS: Yes. It's up on the counter,  
23 Mr. Durham.  
24 MR. DURHAM: Where?  
25 MR. SIMS: It's up on the counter.

1 question regarding something.  
2 (At the bench, on the record)  
3 MR. DURHAM: A motion in limine was filed about  
4 change in procedures. I want to ask what they do with the  
5 knives now.  
6 THE COURT: Okay. I don't recall when we heard  
7 that. What did I rule?  
8 MR. DURHAM: You ruled there was -- the motion  
9 in limine was granted. That's the reason I'm coming up to ask  
10 now.  
11 THE COURT: Okay. All right. Well, that's  
12 fine.  
13 MR. SIMS: Why would a change of procedure on  
14 what they do with the knives now be relevant in this  
15 particular case?  
16 THE COURT: What?  
17 MR. SIMS: He's wanting to ask him about the  
18 change in procedure on how they handle the knives. I don't  
19 see how that's relevant to this case.  
20 THE COURT: Well, it's probably relevant in  
21 that there was something wrong and Mr. Wiley got killed.  
22 MR. DURHAM: Yeah.  
23 (Open court)  
24 Q. (BY MR. DURHAM) Okay. Mr. Gilchrist, do you still  
25 work in the shoe factory?

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1 A. No, sir.  
2 Q. Have you been in there since the incident?  
3 A. Sir?  
4 Q. Have you been in there since the incident?  
5 A. Well, after the incident happened, I stayed in there  
6 for some more months.  
7 Q. Okay. Well, that's -- that's what I mean. So did  
8 they change the procedure --  
9 MR. YONTZ: Objection, Your Honor. May we  
10 approach?  
11 MR. SIMS: That's what we just did, Jim.  
12 MR. YONTZ: Okay.  
13 THE COURT: Go ahead.  
14 Q. (BY MR. DURHAM) Did they change the procedure with  
15 the issuance of the knives?  
16 A. Yes, sir.  
17 Q. How are the knives issued now?  
18 A. They made a -- they made a -- kind of like a tube or  
19 something like out of metal to where the knives go inside, and  
20 you've got a perimeter on the outside to where that's only as  
21 far as the knife will reach, is to that perimeter.  
22 Q. Oh, are they tethered now?  
23 A. Yes, sir.  
24 Q. They weren't tethered before?  
25 A. No, sir.

1 Q. You said something about --  
2 MR. DURHAM: Just a moment, Your Honor.  
3 Q. (BY MR. DURHAM) That some other guy told you about  
4 something that Travis told him when he was coming out of the  
5 chow hall; is that right?  
6 A. Yes, sir.  
7 Q. Who was that person?  
8 A. I do not remember.  
9 Q. You don't remember?  
10 A. No, sir.  
11 Q. Well, this statement was given -- this is the second  
12 statement. You didn't remember it on the 29th, apparently,  
13 did you?  
14 A. No, sir.  
15 Q. And you didn't remember it on the 30th?  
16 A. A lot of people walked up to me, so I can't remember  
17 exactly who it was.  
18 Q. You heard a lot of stories about what had happened?  
19 A. No. I knew what happened. I just didn't say the  
20 first time.  
21 Q. Well -- all right. Why did you not say it the first  
22 time?  
23 A. You know, being in the penitentiary, you know, we  
24 live by codes. Certain things, you don't say. You know what  
25 I'm saying? And at that time, I was in that mode to where I

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1 Q. So that opportunity no longer exists?  
2 A. Yes, sir.  
3 Q. Okay. And Mr. Wiley had just transferred to the  
4 shoe department; is that correct, or did I --  
5 A. No, he went from second shift to first shift.  
6 Q. All right. So he had transferred shifts and had  
7 been on the new shift just a week?  
8 A. Yes, sir.  
9 Q. Okay. And Travis had been on that shift just two or  
10 three days?  
11 A. Yes, sir.  
12 Q. So did you notice a clash in personalities then?  
13 A. No, not from my -- what I saw, no, sir.  
14 Q. You didn't see them having words?  
15 A. No, sir.  
16 Q. You don't think what you just read was a  
17 confrontation of words?  
18 A. Well, not before then. I hadn't ever seen them have  
19 no conflict before that day.  
20 Q. Well, why do you think that Travis -- do you have an  
21 opinion as to why Travis said to you what he said, "He's  
22 fucking with me"?  
23 A. Well, that's up to him. I don't -- I didn't see it,  
24 so I can't answer that question. I don't know what was going  
25 through his mind.

1 didn't want to say nothing.  
2 Q. Well, what took you out of that mode?  
3 A. I thought about what happened. It dawned on me,  
4 really, what happened. You know what I'm saying? This man  
5 did something that he wasn't supposed to do. My conscience  
6 played a big part of it.  
7 Q. Pardon? Your --  
8 A. My conscience played a big part of it.  
9 Q. And you've been in how long?  
10 A. I'm -- February, I'll have 13 years.  
11 Q. All right. When did you develop a conscience?  
12 A. I've been having one.  
13 Q. Well, you didn't have one when you pulled armed  
14 robberies with shotguns, did you?  
15 A. We all make mistakes.  
16 MR. SIMS: Objection, argumentative.  
17 THE COURT: Sustained.  
18 Q. (BY MR. DURHAM) I'll rephrase.  
19 Did you have a conscience at the time of your  
20 conviction?  
21 A. Yep.  
22 Q. But you violated your conscience then?  
23 A. More or less.  
24 Q. Okay. So have you snatched off other people for  
25 violations that have done wrong things?

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1 A. No, sir.  
2 MR. SIMS: Objection, not relevant, Your Honor.  
3 THE COURT: Sustained.  
4 Q. (BY MR. DURHAM) You didn't actually see what  
5 happened?  
6 A. No, sir.  
7 Q. And you do admit that you have two different  
8 statements that don't tell the -- the first one tells a  
9 partial story in which Travis is not even mentioned, correct?  
10 A. Right.  
11 Q. And you left out the part about the problems that he  
12 and Mr. Wiley were having?  
13 A. Right.  
14 Q. Do you feel under any pressure to testify?  
15 A. Yeah, it's kind of hard sitting here looking in his  
16 face telling you what happened, yeah.  
17 Q. Do you feel any pressure from the guards sitting  
18 back there for you to testify?  
19 A. No, sir.  
20 Q. And you don't feel any pressure from the other  
21 inmates for getting what's sometimes called a snitch jacket?  
22 A. Well, I look at it like this here: If --  
23 Q. That's a yes-or-no question, sir. Do you feel  
24 pressure or not?  
25 A. No, sir, I do not.

1 A. Jimmy Jordan.  
2 Q. Where are you residing, sir?  
3 A. At this -- at this present time?  
4 Q. Yeah.  
5 A. Clements Unit.  
6 Q. Now, is that the normal prison unit that you are  
7 assigned to?  
8 A. No, I'm on Smith Unit.  
9 Q. And where is that located?  
10 A. Lamesa. Lamesa, Texas.  
11 Q. You've been transported up here --  
12 A. Yes, sir.  
13 Q. -- as a witness in this case; is that correct?  
14 A. Yes, sir.  
15 Q. Has anyone promised you anything in regards to your  
16 testimony here?  
17 A. No, sir.  
18 Q. Been threatened in any way?  
19 A. No, sir.  
20 Q. Do you know Travis Trevino Runnels?  
21 A. Yes, sir.  
22 Q. Do you see him in the courtroom today?  
23 A. Yes, sir.  
24 Q. How long have you known the defendant?  
25 A. Just about a week or two before he came -- when he

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1 MR. DURHAM: I have no further questions of  
2 this witness, Your Honor.  
3 MR. SIMS: I don't think I have any other  
4 questions, Your Honor.  
5 THE COURT: Okay, Mr. Gilchrist, you can step  
6 down. Thank you, sir.  
7 Call your next witness.  
8 MR. SIMS: Jimmy Jordan.  
9 THE COURT: Jimmy Jordan?  
10 MR. SIMS: Yes, sir, Jimmy Jordan.  
11 THE COURT: Mr. Jordan, if you would come right  
12 around here and take a seat up there on the witness stand,  
13 please, sir.  
14 MR. JORDAN: All right.  
15 THE COURT: Okay. Kind of speak into that  
16 microphone. You don't have to get right up to it.  
17 MR. JORDAN: Okay.  
18 THE COURT: Sort of generally there. Thank  
19 you.  
20 MR. JORDAN: Yes, sir.  
21 JIMMY JORDAN,  
22 having been first duly sworn, testified as follows:  
23 DIRECT EXAMINATION  
24 BY MR. SIMS:  
25 Q. Would you state your name, please, sir?

1 started to work out in the factory.  
2 Q. So you were once housed in the Clements Unit,  
3 correct?  
4 A. Yes, sir.  
5 Q. When was that, sir?  
6 A. January -- well, November up to January -- up to  
7 February.  
8 Q. Of --  
9 A. Two thousand --  
10 Q. November of 2002 until February of 2003?  
11 A. Three, right.  
12 Q. You got shipped off after something happened at the  
13 prison, correct?  
14 A. Right, yes, sir.  
15 Q. Now, you're in prison for aggravated robbery and a  
16 failure to stop and render aid; is that correct?  
17 A. Yes, sir.  
18 Q. How did you get to know Mr. Runnels?  
19 A. Well, just by, you know -- I didn't really get a  
20 chance, you know, to know him. I just seen him out there, you  
21 know. He was a janitor out there in -- in the factory.  
22 Q. Okay. Now, had you always been on the first shift?  
23 A. Yes, sir.  
24 Q. -- out at the boot factory?  
25 A. Yes, sir.

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1 Q. At one point, they closed the second shift and moved  
2 in with y'all; is that correct?  
3 A. Right, moved it up to the front, first shift.  
4 Q. Prior to that happening, had you worked with  
5 Mr. Runnels?  
6 A. Well, you know, he -- you know, he didn't -- you  
7 know, he was out there every day, you know, sweeping, you  
8 know. I worked on the canvas machine, you know. I had spoke  
9 to him, you know, but as far as just knowing him, I didn't  
10 know him, you know.  
11 Q. What about Mr. Wiley, did you know Stan Wiley?  
12 A. Yes, sir.  
13 Q. How did you know him, sir?  
14 A. Well, I had talked to him, you know. He had served  
15 a case to me one day. I had got a -- they had wrote me up by  
16 mistake. He was on the evening shift, and he came and brought  
17 the case to me, to serve me the case, said they said I wasn't  
18 at work that day, and I talked to Mr. William about it and  
19 Mr. William verified to Mr. Wiley that I -- that I was at  
20 work.  
21 MR. DURHAM: Hearsay response, Your Honor,  
22 objection.  
23 THE COURT: Sustained.  
24 Q. (BY MR. SIMS) Once you called it to Mr. Wiley's  
25 attention, did he fix the problem?

1 straight across, and he had his hand in front up under his  
2 neck, and --  
3 Q. Let me ask you something.  
4 A. Okay.  
5 Q. Now, did you tell -- on the first statement you  
6 gave, did you tell the people you were giving the statement to  
7 all this?  
8 A. No. I didn't even know -- you know, I didn't even  
9 know he had been cut, you know. I just seen the blood. I  
10 didn't know, you know, he had been cut.  
11 Q. In the first statement that you gave, did you, in  
12 fact, tell them basically you didn't know anything --  
13 A. I didn't know anything.  
14 Q. -- about anything?  
15 A. Right. He asked me, he said -- he asked me did I  
16 see anything that had happened out there and I told him no,  
17 you know, which I didn't see anything, you know, that had --  
18 you know, the incident that had took place.  
19 Q. Now, the next time they got you out -- or did they  
20 get you out again and talk to you?  
21 A. Yeah, gang intelligence officer.  
22 Q. Okay.  
23 A. STG.  
24 Q. Okay. Came and talked to you, and you gave them  
25 another statement; is that correct?

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1 A. Yes, it was taken care of. He told me he was sorry.  
2 MR. DURHAM: Objection. What he told him would  
3 be hearsay.  
4 THE COURT: Sustained.  
5 Q. (BY MR. SIMS) Just try to answer.  
6 A. Okay.  
7 Q. Did you have any problems with Mr. Wiley?  
8 A. No, sir.  
9 Q. How would you describe him, sir?  
10 A. Well, he was fair, you know. I never had a problem  
11 out of him and I was out there -- you know, I worked with him  
12 out there, you know. I never did have a confrontation with  
13 him, you know.  
14 Q. Now, you've given three different statements in  
15 regards to what happened out --  
16 A. Right.  
17 Q. -- there; is that correct?  
18 A. Right.  
19 Q. Are all three of them the same?  
20 A. Yes, sir, all but one. You know, when it -- when it  
21 first happened, you know, I seen Mr. Wiley when he -- when he  
22 came from -- from the position where he was over -- over by  
23 the box area, and he walked across. And that morning when all  
24 this took place, they -- you know, they -- they -- they -- I  
25 seen him when he walked from the box area over to the office

1 A. Right.  
2 Q. Would it be fair to say there's more in that  
3 statement than there was in the first one?  
4 A. Yes, sir.  
5 Q. Okay. When you got -- what time did you turn out  
6 for work that day?  
7 A. Normal time I think is about 6:00, 6:30 in the  
8 morning.  
9 Q. What did you do when you first got out there to  
10 work, do you remember?  
11 A. I went and -- I went to the tool -- where they  
12 shake -- where they pat shake you when you first go in. And  
13 went to the tool room and got my -- got my knife and gave them  
14 my ID card.  
15 Q. Now, before you went to work that day, did you have  
16 any kind of feeling that there might be something going to  
17 happen?  
18 A. Well, you know -- you know, it was --  
19 MR. DURHAM: Objection, nonresponsive. It's a  
20 yes-or-no question.  
21 A. No, sir, not that day.  
22 Q. (BY MR. SIMS) I'm sorry?  
23 A. No, sir, not that day.  
24 Q. Did you have any kind of feeling that something  
25 might be fixing to happen at the system sometime soon?

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1 A. Right.  
2 MR. DURHAM: The question is --  
3 A. Yes, sir.  
4 MR. DURHAM: -- leading, Your Honor.  
5 THE COURT: Sustained.  
6 Q. (BY MR. SIMS) Prior to going to work that day, what  
7 was your feeling in regards to the system out there at the  
8 farm?  
9 MR. DURHAM: Irrelevance.  
10 THE COURT: Well, rephrase the question,  
11 please.  
12 Q. (BY MR. SIMS) Prior to going to work that day, did  
13 you develop any kind of impression in regards to the farm  
14 being different than what it normally was?  
15 A. Yeah. You know, it had been -- you know --  
16 MR. DURHAM: Objection to anything after "yes."  
17 A. Yes.  
18 THE COURT: Sustained.  
19 Q. (BY MR. SIMS) How so?  
20 A. Well, they was talking about, you know --  
21 MR. DURHAM: Okay. I'm going to object to  
22 hearsay response.  
23 THE COURT: Sustained.  
24 Q. (BY MR. SIMS) Don't tell me anything that was said.  
25 A. Okay.

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1 Q. What, if anything, was going on as far as the  
2 inmates?  
3 MR. DURHAM: Your Honor, that calls for a  
4 hearsay response.  
5 THE COURT: Well, it kind of depends on what  
6 the answer is, but -- so rephrase the question to -- the  
7 "what's going on" is a little vague.  
8 Q. (BY MR. SIMS) Did you observe inmates doing  
9 anything in particular out of the ordinary prior to going to  
10 work that day, any time earlier that week?  
11 A. Yeah, trying to make commissary.  
12 Q. What's making commissary?  
13 A. You know, you know something going to take place,  
14 you know, you're trying to get your groceries, trying to make  
15 store, you know, because you're fixing to go on lockdown.  
16 MR. DURHAM: That's speculation and I'll object  
17 to the answer, and it's not responsive to the question.  
18 THE COURT: Come up just a second, please.  
19 (At the bench, on the record)  
20 THE COURT: Now, carefully -- and you may be  
21 able to qualify him to testify to this sort of thing, but at  
22 this point, I've got to sustain that objection to what he just  
23 said.  
24 MR. SIMS: Okay.  
25 (Open court)

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1 THE COURT: Objection is sustained. The jury  
2 is instructed to disregard the last answer.  
3 Q. (BY MR. SIMS) At that time, how long had you been  
4 at the Clements Unit?  
5 A. From November to February.  
6 Q. How long had you been in the prison system?  
7 A. About 20 -- about 20 some months. No --  
8 Q. Plus the time before -- before you made parole?  
9 A. Twenty-one -- 21 years.  
10 Q. Twenty-one years?  
11 A. Yes, sir.  
12 Q. That you've been incarcerated at that point?  
13 A. Yes.  
14 Q. Through that, are you familiar with -- do you feel  
15 like you are familiar with the prison system and the units  
16 that you're at?  
17 A. Yes, sir.  
18 Q. Have to deal with a lot of inmates on a daily basis?  
19 A. Yes, sir.  
20 Q. As well as the supervision staff; is that correct?  
21 A. Yes, sir.  
22 Q. Now, in regards to you being back on the Clements  
23 Unit at that time, on January 29th of 2003, prior to that  
24 time, had you been back on that farm sufficient enough in time  
25 to feel like what you felt like was a normal occurrence in the

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1 prison?  
2 MR. DURHAM: -- on qualification, Your Honor?  
3 THE REPORTER: I'm sorry, I didn't hear your  
4 objection.  
5 MR. DURHAM: That's a leading question and an  
6 attempt to qualify.  
7 THE COURT: Rephrase the question, please.  
8 Q. (BY MR. SIMS) In the amount of time you had been  
9 back to the Clements Unit, do you feel like you were or were  
10 not familiar with basically a normal, if you want to call it  
11 normal, situation at the prison?  
12 A. No, no, it's not normal.  
13 Q. Pardon me?  
14 A. No, sir.  
15 Q. You weren't familiar with what the normal situation  
16 was at the prison?  
17 MR. DURHAM: Asked and answered.  
18 THE COURT: Did you understand the question you  
19 were asked?  
20 THE WITNESS: No, sir, no, sir.  
21 THE COURT: Repeat the question, please.  
22 Q. (BY MR. SIMS) In January of 2003, you had been back  
23 on -- in the Clements Unit for several months, correct?  
24 A. On the Clements Unit?  
25 Q. Yes. In January of 2003 --

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1 A. Right, right, right, right.  
2 Q. -- you were at the Clements Unit --  
3 A. Right.  
4 Q. -- correct?  
5 A. Right, right.  
6 Q. And you had been there for several months?  
7 A. Right. I was on -- I was there from November to --  
8 up until February, February the 3rd.  
9 Q. And based on all your time involved in being in the  
10 prison system, plus the time that you were there at the  
11 Clements Unit then, okay, do you feel you had an understanding  
12 as to what was normal for being going on around that farm?  
13 A. No, not really.  
14 Q. Okay. All right.  
15 If something unusual that was not day-to-day  
16 routine activity was happening, would you be able to notice  
17 that?  
18 A. Yes, sir.  
19 Q. Did you, in fact, notice that sometime before  
20 January 29th of 2003?  
21 MR. DURHAM: Your Honor, he's not qualified to  
22 answer that question.  
23 THE COURT: Sustained.  
24 Q. (BY MR. SIMS) Did you -- well -- did you see  
25 Mr. Runnels with any kind of weapon or anything on January

1 went to the Clements Unit on a hardship transfer. I don't  
2 remember the date. But it was right before -- right before  
3 Thanksgiving.  
4 Q. So it was toward the end of November?  
5 A. Right.  
6 Q. So around the 25th --  
7 A. Right, right.  
8 Q. -- 26th, would be about right?  
9 A. Right.  
10 Q. And you -- so you were there all of December?  
11 A. Right.  
12 Q. And the incident happened January the 29th, right?  
13 A. Yes, sir.  
14 Q. So you were really there about two months?  
15 A. Right.  
16 Q. Before the incident, right?  
17 A. Right.  
18 Q. And then you transferred out pretty soon after the  
19 incident?  
20 A. Right.  
21 Q. The 5th of February, you transferred out?  
22 A. That's what I just said. I just told him that I was  
23 there from November to February. I just made that statement.  
24 Q. I'm not arguing with you --  
25 A. Right.

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1 29th?  
2 A. No, sir.  
3 Q. When is the first time you saw Mr. Wiley on January  
4 29th of 2003?  
5 A. When he came across from where he was working from  
6 going to the office.  
7 Q. Describe him as you saw him at that point.  
8 A. I was working right at the canvas machine at the  
9 front, that's where I work at. And I was right across from --  
10 direct where Mr. Wiley work at. He came across with his hand  
11 up under his neck and blood was running down his hand. Went  
12 to the office and he got a jacket and put up under his neck.  
13 He come back around by the shoe canvas machine and went around  
14 by the tool room and up to the front, up to the exit door, up  
15 to the front.  
16 Q. Had you been assigned a knife on that day, sir?  
17 A. Yes, sir.  
18 Q. Did you ever let anybody else have it?  
19 A. No, sir.  
20 MR. SIMS: I'll pass the witness, Your Honor.  
21 CROSS-EXAMINATION  
22 BY MR. DURHAM:  
23 Q. Mr. Jordan, I'm a little confused. You went to the  
24 Clements Unit when in November?  
25 A. I can't -- I can't -- I can't actually recall. I

1 Q. -- Mr. Jones, I'm just -- Mr. Jordan, I'm sorry.  
2 A. Right, right.  
3 Q. I'm sorry, sir.  
4 A. Right.  
5 Q. I'm just -- I'm trying to get some time sequence in  
6 here. Why did you transfer?  
7 A. I got into an incident with some Crypt dudes.  
8 Q. You got in an incident with a crippled person?  
9 A. With some --  
10 THE COURT: Mr. Jordan --  
11 A. I got into an incident with some gang members.  
12 Q. (BY MR. DURHAM) Oh. Had you had incidents with  
13 gang members before?  
14 A. No, I hadn't.  
15 Q. That's the only time you had an incident?  
16 A. Right.  
17 Q. Okay. Is that the only incident you have had in  
18 your 21 years in prison?  
19 A. No, I'm -- you asked me on -- on -- I'm talking  
20 about this here happened on the Clements Unit.  
21 Q. Okay. But you have had a lot of incidents while  
22 you've been in prison?  
23 A. Oh, yeah, I've been into some -- you know, I've been  
24 into some things.  
25 Q. Incidents involving violence? Is that correct or

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1 incorrect?  
2 A. That's incorrect.  
3 Q. You have not been in any incident that involved any  
4 violence?  
5 A. I've had some fistfights, you know, other than --  
6 Q. Well, sir, generally, most people think that being  
7 hit with a fist is a violent thing. Do you disagree with that  
8 concept?  
9 A. Well, you know, back in the -- you know, when I was  
10 doing time back in the game (sic), you know, you know, you  
11 could, you know, you could tell a boss - an officer, you  
12 know, I've got one over here, and they would let you fight,  
13 you know, as long as you're fighting with your fists.  
14 Q. It's okay to fight with your fist?  
15 A. Right.  
16 Q. Is that your testimony?  
17 A. Yeah, you know -- you know, back, you know, when I  
18 was doing time back in the early '70s, you know, and, you  
19 know, you could -- you know, you could tell, you know, if you  
20 had a problem with an inmate or something, y'all -- you know,  
21 y'all had different concepts of things, you could tell the  
22 officer, well, I -- you know, I got -- you know, we got some  
23 business we need to take care of. They would let you fight  
24 with your fists, you know.  
25 Q. Okay. Then when did that change?

1 Q. And y'all would?  
2 A. Right.  
3 Q. And that was the end of it?  
4 A. That was the end of it.  
5 Q. Okay. But at some point in time, the system changed  
6 where if there was a fight, the people got written up and  
7 there was disciplinary action taken, correct?  
8 A. Right. That's what I just said, you know.  
9 Nowadays, you know, if you get wrote up --  
10 Q. Okay. Well, I'm asking you when did that change?  
11 When did -- when did you quit fighting at will and you got  
12 written up? About when did that change --  
13 A. In the '80s.  
14 Q. In the '80s?  
15 A. Right.  
16 Q. Sometime in the '80s?  
17 A. Right.  
18 Q. Okay. And that disciplinary procedure would consist  
19 of what? I mean, if you're caught -- if you fight, what is  
20 the procedure for disciplining you?  
21 A. You're liable to go to solitary for 15 days, lose  
22 amount of time of good time.  
23 Q. Okay. What is solitary, please, sir?  
24 A. You know, you're isolated off into -- off into a  
25 cell to yourself, you know, with no commissary, no radio,

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1 A. You know, they got -- you know, right now, you know,  
2 you assault somebody, you know, you can get -- you know, you  
3 can get charged for it.  
4 Q. All right. But when did that start being charged  
5 for fistfighting?  
6 A. You know, you're talking about recently or --  
7 Q. No, sir, I'm talking about when it changed. I mean,  
8 at some point --  
9 A. Oh, you still --  
10 Q. -- in time --  
11 A. -- you know, you know --  
12 Q. Pardon?  
13 A. You know, you still fight. If you get -- if you get  
14 caught, you know, you're going to have disciplinary, you know,  
15 procedures.  
16 Q. All right. Well, see, I'm having a little trouble  
17 following your time line here.  
18 A. Right.  
19 Q. You said back in the '70s, you can say to the  
20 supervisors or guards, or whoever, "I'm having trouble with  
21 John Doe over there" --  
22 A. Right.  
23 Q. -- and he said, "Well, y'all -- y'all work it --  
24 y'all duke it out?"  
25 A. Right.

1 no -- you know, you don't have no appliances.  
2 Q. Have you been in solitary?  
3 A. No, I haven't -- back in the '80s.  
4 Q. Well, then you have been in solitary --  
5 A. Right, right.  
6 Q. -- right?  
7 A. I've been in solitary once.  
8 Q. Okay. And how did you find it?  
9 A. How did -- well, you know, it -- you know -- you  
10 know, you're just doing without, you know. It's a regular  
11 thing, you know, you're doing -- you know, still, you're doing  
12 your time, you just don't have no, you know, appliances and  
13 things in there, you know.  
14 Q. No appliances like coffee makers or --  
15 A. Right, radio.  
16 Q. -- TVs, radios?  
17 A. Right.  
18 Q. You're just sitting on steel?  
19 A. Right.  
20 Q. Is that the same as administrative segregation or  
21 different?  
22 A. Seg, it's different, you know.  
23 Q. All right, sir. Now, let's talk -- have you had an  
24 opportunity today to review your statements you made?  
25 A. No, sir.

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1 Q. Pardon?  
2 A. No, sir.  
3 Q. Do you have those with you?  
4 A. Yes, sir.  
5 Q. Okay. Do you want to take a moment and start with  
6 the statement of January the 29th that you made and review it,  
7 please?  
8 THE COURT: Is that your statement, Mr. Jordan,  
9 or somebody just left it up there?  
10 THE WITNESS: No, this is not none of mine.  
11 This is William. This is William.  
12 THE COURT: Okay.  
13 MR. DURHAM: Well, that's the reason I asked  
14 him, because there was some up there.  
15 Do you have -- may I approach the witness, Your  
16 Honor?  
17 THE COURT: Sure, sure.  
18 Q. (BY MR. DURHAM) You have got three statements you  
19 made, correct?  
20 A. Yes, sir.  
21 Q. Do you read well?  
22 A. Yes, sir.  
23 Q. All right. And you -- these statements were written  
24 by you?  
25 A. Yes, sir.

1 A. Right.  
2 Q. -- correct?  
3 A. Right.  
4 Q. All right. And then on the 30th, you made a new  
5 statement, didn't you?  
6 A. Right.  
7 Q. Do you have that statement with you, sir?  
8 A. Yes.  
9 Q. Review it quickly, please, sir. It's about a page  
10 and ten lines.  
11 A. All right.  
12 Q. Nine lines.  
13 A. (Witness reading)  
14 (Pause)  
15 Q. Please let me know when you're through.  
16 A. Okay. (Witness reading)  
17 (Pause)  
18 Okay.  
19 Q. Okay. In the first statement of the 29th, you  
20 didn't mention Mr. Runnels at all, did you?  
21 A. No, sir.  
22 Q. But on the second statement, you make the  
23 observation that on the 28th, that Mr. Wiley got into it with  
24 Mr. Runnels, do you not?  
25 A. Yes, sir.

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1 Q. Your handwriting?  
2 A. Yes, sir.  
3 Q. Okay. Then look at the one of January 29th, review  
4 it and get yourself familiar with it. I have a few questions  
5 about it, please, sir.  
6 A. (Witness reading) Okay.  
7 Q. All right. That's a one-page -- one-page and four-  
8 line statement, correct?  
9 A. Right.  
10 Q. All right. And in that statement, you essentially  
11 say that you -- you didn't see or hear what happened, don't  
12 you, sir?  
13 A. Right.  
14 Q. And you also say that you hadn't heard about  
15 anything before you did your statement; is that correct?  
16 A. That's not in here.  
17 Q. You didn't say in there that you did not see the  
18 events nor --  
19 A. Oh, no, I didn't --  
20 Q. -- hear about them --  
21 A. -- see the event. No, I didn't see the event.  
22 Q. And you didn't hear about it before your statement?  
23 A. No.  
24 Q. Right. Okay. And that was your statement on the  
25 day of the incident --

1 Q. All right. Exactly what -- you don't elaborate in  
2 your statement on what you mean by "got into it." Could you  
3 tell the jury what kind of confrontation there was between  
4 Mr. Runnels -- now, that was on the 28th that happened, the  
5 day before the incident --  
6 A. I think it was on the 28th.  
7 Q. -- that that confrontation occurred; is that  
8 correct?  
9 A. Right.  
10 Q. All right. Can you enlighten us on what happened on  
11 that occasion?  
12 A. It was about him, you know, working. You know, he  
13 was telling him, you know, about going to work, you know,  
14 about being in his area and not working. And he had told him  
15 that, you know, he was tired of him messing with him, just to  
16 leave him alone.  
17 Q. So they had, at least in your observation, some type  
18 of confrontation --  
19 A. Right.  
20 Q. -- and personality conflict?  
21 A. Right.  
22 Q. Did it continue?  
23 A. No, I didn't -- no, not after then.  
24 Q. Okay. And then later in your statement, you  
25 remember that you did not see Runnels with a weapon?



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1 A. No, I didn't see him with a weapon.  
2 Q. And you did not see him by Wiley?  
3 A. No, I didn't.  
4 Q. But you did hear Wiley scream in the second  
5 statement, correct?  
6 A. I heard somebody scream, yeah. I don't know if it  
7 was him, but I heard somebody scream.  
8 Q. Well, but, you see, in the first statement --  
9 A. Right, right.  
10 Q. -- you didn't see --  
11 A. Right, right.  
12 Q. -- that.  
13 A. Right.,  
14 Q. Right?  
15 A. Right.  
16 Q. What happened overnight that you remembered it?  
17 A. I didn't -- you know, I didn't -- I didn't even know  
18 Mr. Wiley was cut at first until he walked past -- he  
19 wasn't -- he wasn't in no -- no -- no -- you know, no fast  
20 moving or nothing. He just had his hand up under his neck,  
21 you know. You know, if you had just looked at him, you  
22 wouldn't have never thought, you know, something was wrong  
23 with him, you know, because --  
24 Q. You mean you're accustomed to seeing people with  
25 coats around their neck and blood running down their hands?

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1 A. I didn't see -- I didn't see nobody -- I didn't see  
2 nobody cut him.  
3 Q. No, sir, but you said in your second statement you  
4 saw blood running down his hands?  
5 A. I did. That's what I said, I seen blood, but I  
6 didn't see nobody harm him.  
7 Q. And on that day, on the 29th -- on the statement of  
8 the 30th, you stated that you did not see Runnels until he was  
9 taken out the door; is that correct or incorrect?  
10 A. No, I -- in the statement, I said I seen Mr. --  
11 Mr. -- are you talking about Mr. Wiley?  
12 Q. No, Runnels, Travis.  
13 A. Right, right.  
14 Q. You said, "I did not see" --  
15 A. Right, that's --  
16 Q. -- "Travis until" --  
17 A. Right.  
18 Q. -- "he was taken out the door," --  
19 A. Right.  
20 Q. -- right?  
21 A. Right.  
22 Q. That day, you didn't see him until he was taken out  
23 the door, right?  
24 A. Right.  
25 Q. And then on the 5th of February, you were

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1 transferred to another unit. What unit were you transferred  
2 to?  
3 A. Smith Unit.  
4 Q. Pardon?  
5 A. Smith Unit.  
6 Q. Was that an upgrade or a downgrade; how was that? I  
7 mean, better -- better, did you have a better job there or  
8 what?  
9 A. No, I went straight back to a factory job. It  
10 wasn't no better.  
11 Q. Okay. Where is the Smith Unit?  
12 A. Lamesa, Texas.  
13 Q. All right. Why were you transferred to Clements in  
14 the first place?  
15 A. On a hardship.  
16 Q. All right. What was the hardship?  
17 A. Concerning my family.  
18 Q. Where does your family live?  
19 A. Lubbock.  
20 Q. Okay. So Lamesa is closer to the Smith Unit than  
21 Amarillo?  
22 A. Right.  
23 Q. Where were you before the Clements Unit?  
24 A. Michael Unit.  
25 Q. Pardon?

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1 A. Michael Unit.  
2 Q. Where is that?  
3 A. Tennessee Colony.  
4 Q. Which is?  
5 A. Palestine.  
6 Q. All right. Which is some distance from here --  
7 A. Right.  
8 Q. -- I take it?  
9 Okay. Were you transferred quite often during  
10 your 21 years?  
11 A. I went to -- three times, I think. I -- about three  
12 times, three or four times.  
13 Q. Well, now, I got the impression from what you  
14 testified to -- and correct me if I'm wrong --  
15 A. Right.  
16 Q. -- that at some point in time, you made parole?  
17 A. Yeah. Yes, sir.  
18 Q. Well, if you made parole, why were you back in the  
19 penitentiary?  
20 A. I had -- I had a wreck. I'm on a parole violation.  
21 Q. What was the parole violation?  
22 A. Failure to stop and render aid.  
23 Q. Okay. And were you charged in that case?  
24 A. Yes, sir.  
25 Q. Did you plead guilty?

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1 A. Yes, sir.  
2 Q. Did you get a sentence?  
3 A. Yes, sir.  
4 Q. For how much?  
5 A. Twenty-five -- 25 years.  
6 Q. Was that on top of your prior sentence?  
7 A. No, it was run concurrent.  
8 Q. Run concurrent?  
9 A. Right.  
10 Q. And your original sentence was what?  
11 A. Ninety years.  
12 Q. For what?  
13 A. Armed robbery.  
14 Q. And you served 20 -- how many years did you serve  
15 before you made parole?  
16 A. Twenty years.  
17 Q. Okay. And you made parole on 90 years?  
18 A. Right.  
19 Q. And you got out and -- and got the stop to render  
20 aid. (sic) Was someone hurt in that?  
21 A. No, sir. They enhanced my punishment.  
22 Q. Because of the armed robbery?  
23 A. Right.  
24 Q. But no one was hurt?  
25 A. No, sir.

1 with him.  
2 Q. That's fine, except what I have reference to, sir,  
3 in your third statement, you recite the confrontation as being  
4 more confrontational and which you say that Runnels and Wiley  
5 were arguing.  
6 A. Right.  
7 Q. And Runnels told Wiley --  
8 A. He needed, you know, to stop --  
9 Q. Told him what?  
10 A. That he needed to stop fucking with him.  
11 Q. Or?  
12 A. He was going to do something to his ass.  
13 Q. Okay. So they had a pretty -- pretty violent  
14 confrontation, didn't they?  
15 A. Right.  
16 Q. And that was on the 28th, the day before this  
17 incident happened?  
18 A. It was that -- I think it was that -- that -- that  
19 Friday or that -- it was that Friday or that Monday, it was  
20 one of them.  
21 Q. Well, Friday would have been long before the 29th.  
22 The 29th was on a Tuesday, wasn't it?  
23 A. Yeah, 20 -- yeah, that Monday, I think it was that  
24 Monday.  
25 Q. You think it was that Monday?

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1 Q. Okay. Then you're transferred down to Lamesa?  
2 A. Right.  
3 Q. Which is much closer to Lubbock?  
4 A. Right, yes, sir.  
5 Q. How far is it from Lubbock?  
6 A. Fifty-nine miles.  
7 Q. Okay. And Amarillo is roughly 120 miles?  
8 A. A hundred and -- 120, 110.  
9 Q. A hundred and 20, 110. So you get transferred where  
10 you're much closer to your family. And you remember a lot  
11 more in your third statement than you did in your first or  
12 second statement; is that correct?  
13 A. Yes, sir.  
14 Q. What refreshed your memory, the transfer?  
15 A. No, it didn't.  
16 Q. Well, why did you remember it?  
17 A. Well, I -- just like I told you while ago, you know,  
18 I didn't know that Mr. Wiley was cut until -- until the OGI  
19 called me out and talked to me about it, you know. I  
20 didn't -- I didn't know that he had got cut, you know, until  
21 that day when I went in his office. He asked me did I see  
22 Mr. Wiley, and I told him, I said, "Yeah," I said, "I seen him  
23 with some blood running down his hand up under his neck." But  
24 just like I told you while ago, if you had've seen Mr. Wiley  
25 walking, you wouldn't have never thought nothing was wrong

1 A. Right.  
2 Q. And had they had any problems before that?  
3 A. Not that I knows of.  
4 Q. Well, Travis had only been working with him --  
5 A. Three days.  
6 Q. -- three or four days, hadn't he?  
7 A. Three days, three days.  
8 Q. Three days. And right away, there was -- there was  
9 friction between the two of them right away. Would that be a  
10 fair statement?  
11 A. All I know -- the only thing I can say is Mr. Wiley  
12 had told him to go to work, you know, about being in his area  
13 and not working, told him to go to work. I was --  
14 Q. But you saw they had a confrontation?  
15 A. Right, yes, sir.  
16 Q. Okay. And Travis, in fact, told you in a subsequent  
17 conversation that he was going to do something if he didn't  
18 quit fucking with him?  
19 A. Right.  
20 Q. But he didn't say what he was going to do?  
21 A. Right.  
22 Q. And that conversation and that incident you  
23 remembered in your third statement of the 14th. Were you  
24 given a transfer based on your revived memory?  
25 A. No, I wasn't transferred on no memory. I was -- I

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1 had got into it with some gang members.  
2 Q. That's the only reason you were transferred?  
3 A. Right.  
4 Q. All right. When you got into it with the gang  
5 members, were you disciplined?  
6 A. No. No, sir, no, sir, no, I wasn't.  
7 Q. You were transferred for your safety?  
8 A. Right.  
9 Q. Okay. It's unusual to be at one unit just three  
10 months, isn't it?  
11 A. No, I wasn't on the Clements -- the Michael Unit but  
12 90 days. I was there three months.  
13 THE REPORTER: I'm sorry, what unit?  
14 THE WITNESS: Michael Unit. I was there three  
15 months.  
16 Q. (BY MR. DURHAM) And before that, where were you?  
17 A. Middleton Unit, private facility.  
18 Q. Private facility?  
19 A. Right, transfer facility.  
20 Q. Okay. For how long were you there?  
21 A. Seven days.  
22 Q. And before that, where were you?  
23 A. Byrd Unit.  
24 Q. How long were you there?  
25 A. Twenty-some days.

1 penitentiary?  
2 A. Twenty-three.  
3 Q. Twenty-three, a young man?  
4 A. Right.  
5 Q. And you were a little more prone to take offense  
6 than you are when you get to be 57. Would that be a fair  
7 statement?  
8 A. Well, you know, when you're young, you know, you  
9 do -- you do -- you do stupid stuff.  
10 Q. And you do stupid stuff, and as you get older --  
11 A. You get wiser.  
12 Q. -- you realize it was stupid stuff?  
13 A. You get wiser.  
14 Q. You get wiser?  
15 A. Yeah.  
16 Q. Okay. Now, during the three months that you were at  
17 Clements, you never saw Travis involved in any fights with  
18 anyone, did you?  
19 A. I wasn't on the building with him. I didn't stay on  
20 the building with him.  
21 Q. Well, sir, did you see him involved in any fights,  
22 was my question.  
23 A. No, I didn't.  
24 Q. All right. Did you see him having words with anyone  
25 other than Mr. Wiley?

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1 Q. How many times have you been written up?  
2 A. Since I've been back on this violation?  
3 Q. No, sir, in your 22 -- 21-plus years in the  
4 penitentiary.  
5 A. I can't recall.  
6 Q. Too many to remember?  
7 A. Right. Could be, I don't know.  
8 Q. Pardon?  
9 A. I can't say.  
10 Q. And fighting was involved in many of those?  
11 A. Right.  
12 Q. And they keep a pretty close eye on somebody that  
13 gets into trouble and is a violent person, don't they?  
14 A. I -- I couldn't -- I couldn't -- I wouldn't.  
15 Q. Well, sir, you've been written up many, many times,  
16 haven't you?  
17 A. But all of them wasn't for fighting, though.  
18 Q. Well, you don't consider fighting violence?  
19 A. I said all of them wasn't for fighting.  
20 Q. Well, back when -- what are you now, about 54?  
21 A. I'm 57.  
22 Q. Fifty-seven years old?  
23 A. Right.  
24 Q. And 20 years ago, you were 37. You went to the  
25 penitentiary -- how old were you when you first went to the

1 A. No.  
2 Q. Thank you, sir, for being here.  
3 MR. DURHAM: Pass the witness.  
4 REDIRECT EXAMINATION  
5 BY MR. SIMS:  
6 Q. What are the boot knives or the shop knives used  
7 for --  
8 A. Trimming.  
9 Q. -- that you had?  
10 A. Trimming.  
11 Q. What are you trimming?  
12 A. Leather, leather and rubber.  
13 Q. And what's the leather used for?  
14 A. Boots.  
15 Q. What about the rubber?  
16 A. For canvas shoes.  
17 Q. Are those knives dull or sharp?  
18 A. No, we got our own whet rocks. We keep them sharp,  
19 just like a razor.  
20 Q. How sharp?  
21 A. Sharp.  
22 Q. Got to to cut that leather and rubber?  
23 A. Sharp.  
24 MR. DURHAM: Objection, leading.  
25 THE COURT: Sustained.

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1 Q. (BY MR. SIMS) On January 29th of 2003, did anyone  
2 ask you for your knife?  
3 A. Yes, sir.  
4 Q. Who? The defendant?  
5 A. Right.  
6 Q. Did you let him use it?  
7 A. No, I didn't.  
8 MR. SIMS: Pass the witness, Your Honor.  
9 RE CROSS-EXAMINATION  
10 BY MR. DURHAM:  
11 Q. Okay. That's in your third statement, right?  
12 A. Right.  
13 Q. Is that correct?  
14 A. That's right.  
15 Q. You made that known on the 14th, after you were  
16 transferred after you had the trouble with the Crypts?  
17 A. Right.  
18 Q. Right? You didn't tell anyone that the 29th. You  
19 knew absolutely nothing on the 29th, correct?  
20 A. No, he had asked me for that knife, but --  
21 Q. Sir --  
22 A. Right.  
23 Q. -- in your statement of the 29th, you knew  
24 absolutely nothing about anything, correct?  
25 A. I'm not --

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1 Q. Looking at the statement, sir, isn't that what your  
2 statement says?  
3 A. Right. But he had asked me for a knife --  
4 Q. Well, sir, I'm just talking about --  
5 A. Right, right.  
6 Q. -- what you told --  
7 A. Right.  
8 Q. The story you told on the 29th is what I'm asking  
9 about.  
10 A. Right.  
11 Q. And then the next day you told another story and you  
12 didn't tell them about the knife, did you?  
13 A. No, I didn't.  
14 Q. All right. So it was two weeks later, after you  
15 have this altercation with the gang members and you're  
16 transferred closer to your family that you remembered about  
17 the knife --  
18 A. The knife --  
19 Q. -- is that correct?  
20 A. The knife, he asked me for the knife. You know,  
21 I'm --  
22 Q. Sir --  
23 A. Yeah.  
24 Q. -- is it after you were transferred that you  
25 remembered about the knife and gave the statement?

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1 A. No, no, it wasn't -- it -- it was before the  
2 transfer.  
3 Q. Okay. Why didn't you give a statement before you  
4 were transferred?  
5 A. Well, I didn't -- I didn't -- I didn't realize, you  
6 know, that -- that, you know, that he had asked -- you know,  
7 he had asked me for that knife at the present time.  
8 Q. Oh, you didn't realize he had asked you for the  
9 knife, but you realized it in time to remember it for the  
10 14th?  
11 A. I remembered it.  
12 Q. You remembered it. Okay. Did you go to the  
13 authorities and say, "I remember something"?  
14 A. I went to the STG.  
15 Q. Okay. Was that before or after the transfer?  
16 A. That was before.  
17 Q. Before the transfer, you remembered it, they  
18 transferred you, and then you gave a new statement, correct?  
19 A. I gave a -- I gave a -- I gave a statement before  
20 they -- before they transferred me.  
21 Q. The third statement you gave before you were  
22 transferred?  
23 A. Right.  
24 Q. Well, the third statement is dated 14th of February  
25 and you said you were transferred the 5th of February.

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1 Which -- I'm really confused here. Please help me out. Which  
2 was it?  
3 A. I was on this unit in seg.  
4 Q. Pardon?  
5 A. I was in seg. I was housed in transit, in seg on  
6 this unit in 11 Building.  
7 Q. All right.  
8 A. I hadn't left this unit.  
9 Q. Okay. On what date?  
10 A. I don't remember the date.  
11 Q. Okay. Well, you testified to this jury a moment ago  
12 you were transferred on the 5th of February to the Lamesa  
13 Unit?  
14 A. Right.  
15 Q. Okay. This statement is dated the 14th of February?  
16 A. I was on -- I was still on -- I was on this unit. I  
17 talked to the STG on this unit right here.  
18 Q. While you were in segregation or before you went to  
19 segregation?  
20 A. I was in 11 Building.  
21 Q. What's 11 Building?  
22 A. That's solitary.  
23 Q. You were in solitary?  
24 A. Right.  
25 Q. And you remembered?

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1 A. Right.  
2 MR. DURHAM: Okay. No further questions.  
3 REDIRECT EXAMINATION  
4 BY MR. SIMS:  
5 Q. Why were you in solitary?  
6 A. That's where they had me placed on trans.  
7 Q. Tell them what "trans" is.  
8 A. Just like they got me housed right now on a -- it's  
9 just like segregation or Ad Seg, you know, where you don't --  
10 you know --  
11 Q. What does "trans" mean? Tell them -- tell them what  
12 that means.  
13 A. Trans is you're going to be transferred.  
14 Q. Okay. Anybody tell you what to say here today?  
15 A. No, they didn't.  
16 Q. We talked before you testified, haven't we?  
17 A. Right.  
18 Q. What's the most important thing I told you you could  
19 do in here?  
20 A. Tell the truth.  
21 Q. Is that what you've done?  
22 A. That's what I have did.  
23 MR. SIMS: Pass the witness, Your Honor.  
24  
25

1 courtroom there, take a seat on the witness stand, please,  
2 sir.  
3 Mr. Elkins, once you get comfortable, kind of  
4 pull that microphone there towards you a little bit so that  
5 you -- you don't have to have it right up close to you, but  
6 just so you can speak into it.  
7 MR. ELKINS: Yes, sir.  
8 WILLIAM ELKINS,  
9 having been first duly sworn, testified as follows:  
10 DIRECT EXAMINATION  
11 BY MR. SIMS:  
12 Q. State your name, please, sir.  
13 A. William Elkins.  
14 Q. Where are you living at right now, sir?  
15 A. My assigned unit?  
16 Q. Where are you living at right now?  
17 A. Bill Clements Unit.  
18 Q. And that's a prison unit in regards to the Texas  
19 Department of Criminal Justice; is that correct?  
20 A. Yes, sir.  
21 Q. And you're there on transport from another unit; is  
22 that correct?  
23 A. Yes, sir.  
24 Q. Where is your normal house at?  
25 A. Ellis One.

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1 RECROSS-EXAMINATION  
2 BY MR. DURHAM:  
3 Q. Tried to? Is that what you just said?  
4 A. I said I did.  
5 Q. I thought you used the word "tried"?  
6 A. No, I didn't. You're trying to put words in my  
7 mouth.  
8 Q. No, sir, I just asked you if I heard you correctly.  
9 A. Right.  
10 Q. And if I didn't, I didn't.  
11 A. Yeah.  
12 Q. And I apologize --  
13 A. Right.  
14 Q. -- because -- I'm not trying to put words in your  
15 mouth because I'm not taking your statement.  
16 A. Right.  
17 MR. DURHAM: No further questions.  
18 MR. SIMS: Nothing further, Your Honor.  
19 THE COURT: Okay, you can step down.  
20 Call your next witness.  
21 MR. SIMS: William Elkins.  
22 THE COURT: William who?  
23 MR. SIMS: Elkins.  
24 THE COURT: Mr. Elkins, if you would come right  
25 up there in the middle, please, right up to the front of the

1 Q. Where is that, sir?  
2 A. In Huntsville, Texas.  
3 Q. And currently, you're in prison on a life sentence  
4 for aggravated rape; is that correct?  
5 A. Yes, sir.  
6 Q. How long have you been in, sir?  
7 A. Twenty-three.  
8 Q. Twenty-three years?  
9 A. Yes, sir.  
10 Q. Now, previously, back in January of 2003, were you  
11 an inmate at the Clements Unit?  
12 A. Yes, sir.  
13 Q. How long had you been at the Clements Unit at that  
14 time?  
15 A. Ten years.  
16 Q. Did you have any job assignment at that time?  
17 A. Yes, sir, at that time --  
18 Q. What did you do?  
19 A. I was a cooking officer dining room, and then I went  
20 to the boot factory.  
21 Q. In January -- or January 29th --  
22 A. No, January, I was working in the boot factory, sir.  
23 Q. In January of 2003, how long had you been working in  
24 the boot factory?  
25 A. Well, on and off about five years, I think it was.

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1 Q. On January 29th of 2003, what was your job at the  
2 boot factory?  
3 A. I was side laster.  
4 THE REPORTER: I'm sorry?  
5 A. I was side laster, machine operator.  
6 Q. (BY MR. SIMS) Now, did you know an inmate by the  
7 name of Travis Runnels from the Clements Unit at that time?  
8 A. I knew of him from working out there, sir.  
9 Q. Do you see him here in the courtroom today, sir?  
10 A. Yes, sir.  
11 Q. Can you please point him out and describe the  
12 clothing he's wearing?  
13 A. Shirt and tie, brownish shirt and tie.  
14 Q. Can you point in his direction, please, sir?  
15 A. (Witness complies)  
16 Q. Okay. Thank you.  
17 About -- at that time, about how long had you  
18 known this defendant?  
19 A. Well, from just working out there because about -- I  
20 think he had been out there a week or two, I think, somewhere  
21 around there.  
22 Q. Now, did you also know a Stanley Wiley?  
23 A. Mr. Wiley, yes, sir.  
24 Q. Mr. Wiley. How did you know him, sir?  
25 A. Well, he was my supervisor and I knew him quite

1 identification purposes.  
2 Now, you said you were working on some  
3 equipment; is that correct?  
4 A. Yes, sir.  
5 Q. Tell me approximately where you were working that  
6 day.  
7 A. Well, I -- I was --  
8 Q. I'm just going to start over here and I'll start  
9 moving across and you tell me when to stop.  
10 A. This over -- well, see over there, that's the side  
11 lasting area there.  
12 Q. The laster is right there?  
13 A. Yes, sir.  
14 Q. Okay.  
15 A. And I was behind the side laster working, trimming  
16 the boots.  
17 Q. Okay. You see that No. 27 there?  
18 A. Yes, sir. It should be right in there.  
19 Q. There's a No. 26 there. Which one?  
20 A. Where was the table?  
21 Q. Eighteen, the table is 18 -- 17, 18, 19.  
22 A. Okay. I was working right there -- right there --  
23 right there by my machine, right in that area right there.  
24 Q. Right in here somewhere? (Indicating)  
25 A. Yes, sir.

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1 well.  
2 Q. How long had you been under his direction as a  
3 supervisor?  
4 A. Right at -- a little better than a year, I think it  
5 was, or better, probably. He took another officer's place.  
6 Another officer had retired and he took his place.  
7 Q. Describe Mr. Wiley for us, please.  
8 A. Mr. Wiley was probably like about five -- five nine,  
9 five ten, somewhere about my height, somewhere around there.  
10 Q. What kind of person was he, sir?  
11 A. Mr. Wiley was a good man. He was -- he was like --  
12 well, he was my supervisor.  
13 Q. Did you get along with him?  
14 A. Yes, sir.  
15 Q. There are some tissues right there by you if you  
16 need one.  
17 Mr. Elkins, can you see this or do I need to  
18 move it up closer?  
19 A. Bring it up a little closer, please.  
20 Q. Yes, sir.  
21 A. All right.  
22 Q. Are you able to recognize that, sir?  
23 A. Yes, sir. That's the -- that's a diagram of the  
24 boot factory.  
25 Q. And it's marked as State's Exhibit No. 50 for

1 Q. Okay. I'm going to put "E" right there and mark  
2 approximately where you were working, okay? Is that fair  
3 enough?  
4 A. Yes, sir.  
5 Q. Okay. Was Mr. Runnels working that day?  
6 A. Yes, sir.  
7 Q. What was he doing that day, sir?  
8 A. Well, he was janitor, I think it was, on the broom.  
9 Q. Okay. Had he been out there very long, Mr. Runnels?  
10 A. Well, he -- he was assigned out there. I think he  
11 had been out there every day, I think it was.  
12 Q. I'm sorry, I didn't understand you.  
13 A. I think he was out there every day. He was assigned  
14 out there to the boot -- I mean boot factory.  
15 Q. Do you know how long he had been out there?  
16 A. I would say maybe a couple of weeks, two weeks,  
17 somewhere around there.  
18 Q. Okay. That particular morning, when you first got  
19 out there, did you talk to anybody or just went to work?  
20 A. Just your regular people that associate -- that work  
21 in that area with us. We be sitting around kicking and  
22 drinking coffee and, you know, shooting -- shooting the bull,  
23 you know, until time to go to work.  
24 So Mr. -- so -- so --  
25 MR. DURHAM: It became --

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1 A. -- Mr. Wiley --  
2 MR. DURHAM: -- nonresponsive at some point in  
3 time, I'll object.  
4 A. Mr. Wiley --  
5 Q. (BY MR. SIMS) Okay. Let me ask you --  
6 THE COURT: Okay. Ask another question.  
7 Q. (BY MR. SIMS) Did you see Mr. Wiley having any kind  
8 of discussion with anyone?  
9 A. No, not right offhand. He had told Mr. Runnels to  
10 go to work or get on the wall.  
11 Q. Okay. What happened at that point?  
12 A. At that time, Mr. Runnels went to work.  
13 Q. What was the defendant, Mr. Runnels, doing at that  
14 point?  
15 A. Sweeping.  
16 Q. What's the next thing you remember happening that  
17 day?  
18 A. Well, went on back -- I went on back trimming my  
19 boots and stuff, trying to -- because I was in vocational  
20 training and I was trying to get through with my work and then  
21 go to school. And so a few minutes later, Mr. Runnels, he  
22 came to me about cutting some sleeves out of this shirt,  
23 thermal shirt, so I was so far stuck out on the boots so I  
24 didn't have time to let him go down there by himself and use  
25 my knife, so I go down there and I cut the sleeves out of this

1 there and wanted to use my knife where he can cut some Vs in  
2 his shirt. He was making a muscle shirt, he said. So I told  
3 him, I say, "Well, look here, man, as soon as I get caught up,  
4 I'll let you use it."  
5 And then I give him the knife and he -- he  
6 didn't -- he wasn't mad. He had a smile on his face, so I  
7 give him the knife, and he goes down --  
8 Q. Let me ask you, what did you think he was going to  
9 do with the knife when you gave it to him?  
10 A. Well, I was thinking he was going to --  
11 MR. DURHAM: Objection. It calls for  
12 speculation, Your Honor.  
13 THE COURT: Sustained.  
14 Q. (BY MR. SIMS) Did Mr. Runnels tell you what he  
15 wanted the knife for?  
16 A. No, sir, other than to cut the Vs in his shirt, make  
17 a muscle shirt.  
18 Q. You gave him the knife. What happened?  
19 A. I give him the knife, he went down there, and that's  
20 what I assumed that's what he was going to do.  
21 MR. DURHAM: Objection, nonresponsive. Assumed  
22 is not a proper response. It's speculation.  
23 THE COURT: Objection sustained.  
24 MR. DURHAM: May I have an instruction to  
25 disregard?

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1 shirt and I come back.  
2 Q. Y'all went together?  
3 A. Yes, sir.  
4 Q. Okay. What was Mr. Runnels' attitude at that time?  
5 A. He was --  
6 MR. DURHAM: Objection. There's no proper  
7 predicate for that question.  
8 THE COURT: Sustained.  
9 Q. (BY MR. SIMS) What happened next?  
10 A. He had a -- he was -- he had a smile on his face.  
11 He didn't act like he was mad or nothing like that there. He  
12 had a smile on his face like all the other times I had seen  
13 him, you know.  
14 MR. DURHAM: That's not responsive to the  
15 question, Your Honor.  
16 THE COURT: Sustained.  
17 MR. DURHAM: I'm going to object to it. Could  
18 he ask a question and get a response?  
19 Q. (BY MR. SIMS) Once you got back from cutting the  
20 sleeves out, what happened?  
21 A. I went back at the table to sit down and went to  
22 kicking it with my friend, and then I went on -- fixing to  
23 knocking some of the racks out because they were coming in  
24 kind of regular on me, so I went back to work.  
25 So shortly later, Mr. Runnels come back down

1 THE COURT: Mr. Elkins, here's what I need you  
2 to do. Listen carefully to the question that you're asked --  
3 THE WITNESS: Yes, sir.  
4 THE COURT: -- and answer that question.  
5 THE WITNESS: All right.  
6 THE COURT: Okay, thanks.  
7 MR. DURHAM: Thank you, Your Honor.  
8 Q. (BY MR. SIMS) So you -- what do you do after you  
9 give the defendant the knife?  
10 A. I stayed over there sitting down at the table  
11 drinking coffee.  
12 Q. You couldn't do any work without your knife?  
13 A. No, sir.  
14 Q. You couldn't do your assigned job, correct?  
15 A. Yes, sir.  
16 Q. Did you see where Mr. Runnels went?  
17 A. He went down there by boxing area, somewhere down in  
18 there.  
19 Q. I guess we need to get that back up here.  
20 THE COURT: Gary, just take it off the easel,  
21 take the easel away, and we can just lean it against the  
22 table.  
23 Okay. Thank you.  
24 Q. (BY MR. SIMS) On State's Exhibit No. 50 for  
25 identification purposes, you had indicated that you were

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1 Q. Who did he point at, sir?  
2 A. Mr. -- Mr. --  
3 Q. The defendant, Mr. Runnels?  
4 A. Yes, sir.  
5 Q. And then what happened?  
6 A. Then Mr. Boomer told him, said, "Man" --  
7 MR. DURHAM: Objection. That would be hearsay,  
8 Your Honor.  
9 THE COURT: Sustained.  
10 Q. (BY MR. SIMS) After -- skip what was said. What's  
11 the next thing that happened?  
12 A. About that time, people came in, told us to get on  
13 the floor, put our hands behind our backs, some laws from the  
14 Neal Unit.  
15 Q. What did they have you do with your knives?  
16 A. They -- they made us put our knives on the desk. We  
17 put our knives on the desk, and they took -- took them. I  
18 guess they did a DNA --  
19 Q. When you got your knife back, did you look at it,  
20 when you got your knife first back from Mr. Runnels?  
21 A. When I got it back, see what -- ain't nothing on it,  
22 so that's the reason why I never did think that Mr. Runnels  
23 had did anything --  
24 MR. DURHAM: I don't think --  
25 A. -- to Mr. Wiley.

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1 MR. DURHAM: -- that's responsive to a question  
2 and I object.  
3 THE COURT: Sustained.  
4 MR. DURHAM: May I have an instruction to the  
5 jury to disregard some of these nonresponsive answers?  
6 THE COURT: Disregard the last answer, please.  
7 MR. DURHAM: Thank you.  
8 MR. SIMS: I'll pass the witness, Your Honor.  
9 CROSS-EXAMINATION  
10 BY MR. DURHAM:  
11 Q. Mr. Elkins, you gave two statements and they are  
12 quite different, aren't they?  
13 A. Sir?  
14 Q. Pardon? Did you understand the question?  
15 A. No, sir.  
16 Q. Okay. You gave two statements?  
17 A. Yes, sir.  
18 Q. All right. Have you reviewed those statements prior  
19 to coming to court today?  
20 A. My -- my first statement that I gave, I -- I -- I  
21 gave --  
22 Q. It's a yes-or-no question, sir.  
23 Let me explain responsiveness to you. You  
24 listen to the question --  
25 THE COURT: Mr. Durham --



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1 MR. DURHAM: Pardon me, Your Honor.  
2 THE COURT: Mr. Elkins, did you hear the  
3 question? The question he asked you was: Did you review your  
4 two statements before you came here today?  
5 THE WITNESS: No, sir.  
6 THE COURT: Did you look at them?  
7 THE WITNESS: Not today.  
8 THE COURT: Did you read them?  
9 THE WITNESS: No, sir.  
10 THE COURT: Okay. Would you like an  
11 opportunity to do that?  
12 THE WITNESS: Yes, sir.  
13 THE COURT: Okay. You read those over,  
14 Mr. Elkins, and then we'll continue.  
15 (Witness reading)  
16 (Pause)  
17 THE WITNESS: This was my first statement, sir.  
18 THE COURT: Okay. Read them -- there should be  
19 two there.  
20 THE WITNESS: Yeah.  
21 THE COURT: Read them both.  
22 THE WITNESS: I can't read that good. Can I  
23 get someone to help me, please?  
24 MR. SIMS: May we approach the bench?  
25 THE COURT: Yeah, sure.

1 A. No, someone else wrote them for me.  
2 Q. Someone wrote them for you? Okay. Well, you gave  
3 your first statement on January 29th; is that right?  
4 A. Yes, ma'am.  
5 Q. Okay. And in that statement, that statement, you  
6 just talked about being -- would it -- would it -- would it be  
7 better if I read to you --  
8 A. Yes, ma'am.  
9 Q. Okay. It says, "On January 29th" --  
10 MS. HAMILTON: I'm going to approach the  
11 witness, Judge.  
12 Q. (BY MS. HAMILTON) Let me make sure that we're on  
13 the same page, okay?  
14 A. Okay.  
15 Q. Now, have you read that? Can you read any of that,  
16 sir?  
17 A. No.  
18 Q. Okay. Starting with that handwriting down there,  
19 that's not your handwriting, is it?  
20 A. No, ma'am.  
21 Q. Okay. You -- and in that statement, you just talked  
22 about that you heard -- you say, "I heard Mr. Wiley telling an  
23 inmate, 'I told you if you're not going to clean up, get on  
24 the wall.'"  
25 A. Yes, ma'am.

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1 (At the bench, on the record)  
2 MR. SIMS: They have all seen their statements.  
3 They have even seen them today.  
4 THE COURT: Okay.  
5 MR. SIMS: And then he doesn't read well --  
6 somebody is going to have to read it to him.  
7 (Open court)  
8 THE COURT: Okay. Just go through it the best  
9 you can, Mr. Elkins, and when Mr. Durham gets back, we'll  
10 start asking some questions about it.  
11 THE WITNESS: Well, on my first statement that  
12 I gave --  
13 THE COURT: Okay. Wait until Mr. Durham gets  
14 back here. Well, I guess you don't know who he is. He's the  
15 guy that walked out the door.  
16 (Mr. Durham returns to the courtroom)  
17 THE COURT: Okay, Mr. Durham, Mr. Elkins said  
18 he can't read and write very well, so if you'll kind of go --  
19 as you have questions, go up and show him what you're talking  
20 about and read it to him.  
21 MR. DURHAM: I'll let Ms. Hamilton. She can  
22 read it and I probably -- she can see it and I probably can't.  
23 THE COURT: Okay. All right.  
24 Q. (BY MS. HAMILTON) Mr. Elkins, could you read any of  
25 your statements? Did you write them or --

1 Q. Okay. What -- that just means to just kind of stand  
2 aside?  
3 A. No, ma'am. They got a -- up there toward the  
4 office, that's what they call the wall. If you're not going  
5 to work, you get on -- stand on the wall and they call for  
6 security to come get you.  
7 Q. Okay. And you heard that, but then did you see  
8 Mr. -- did you see Mr. Wiley after that?  
9 A. No, he went on down to the other work area, you  
10 know -- you know, because, you know, everybody have certain  
11 jobs to do.  
12 Q. Okay. But in that statement, you don't say  
13 anything -- later in that statement, you say, "I -- I had my  
14 knife when Mr. Wiley was cut," but there's nothing in this  
15 statement about what you testified to about what you saw. You  
16 didn't put that in this statement, did you?  
17 A. I didn't see anything.  
18 Q. Okay. You just heard -- you just heard?  
19 A. I just heard -- I know I had gave Mr. Runnels my  
20 knife, and I never thought that he did anything because there  
21 wasn't no blood or nothing on my knife, so I felt like he  
22 hadn't hurt nobody because I couldn't say that he hurt  
23 anybody.  
24 Q. Okay. And then you gave another statement, I  
25 believe, the next day?

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1 A. Yes, ma'am.

2 Q. Okay. And then you gave another statement; is that

3 right?

4 A. The second statement.

5 Q. Did you give three statements --

6 A. No, ma'am.

7 Q. -- or two statements?

8 A. Two statements.

9 Q. Okay. How long had you known Mr. Runnels?

10 A. I hadn't known Mr. Runnels that long. I just know

11 him from working around him, seeing him out there. He always

12 had a smile on his face, always -- we suspected that he had --

13 a pretty cool fellow.

14 Q. You had only seen him a few times?

15 A. Yes, ma'am.

16 Q. Okay. And you said he always had a smile on his

17 face, seemed good-natured?

18 A. He always had a -- seemed like he was a great guy.

19 Q. Okay. And you had known Mr. Wiley how long?

20 A. Well, on and off probably about five years,

21 somewhere around there. I knowed him when he was in gray.

22 THE REPORTER: I'm sorry, knowed him when he

23 was in what?

24 A. When he was in gray -- gray uniform.

25 Q. (BY MS. HAMILTON) Isn't it true that there are --

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1 sometimes there are disagreements between supervisors and

2 inmates?

3 A. Sometime there is.

4 Q. And, in fact, there are times when -- when an inmate

5 might not want to work?

6 A. Yes, ma'am, there's quite a bit of that.

7 Q. Sorry?

8 A. Yes, ma'am.

9 Q. There's quite a bit of that, is that what you said?

10 A. Yes, ma'am.

11 Q. Okay. And sometimes people just don't get along out

12 there, like the supervisors and the inmates?

13 A. Well, I -- I wouldn't say don't get along, because,

14 I mean, you know, if you don't want to work, a lot of them

15 come out there that don't want to work, so they cause a

16 problem for themselves, you know, and --

17 Q. And that's happened to you in the past?

18 A. Yes, ma'am, I've had -- you know, I went through --

19 Q. You've had days you didn't want to work --

20 A. Yes --

21 Q. -- in the past?

22 A. Yes, ma'am.

23 Q. Okay. And you get written up for it?

24 A. Well, I never got written up. I got a warning.

25 Q. Oh, okay, got a warning, okay.

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1 What unit are you in now?

2 A. Ellis, Ellis One, Huntsville, Texas.

3 Q. And where were you before that?

4 A. Before Ellis One?

5 Q. Yes, sir.

6 A. Bill Clements Unit, Amarillo, Texas.

7 Q. Okay. When did you go from Clements to Ellis?

8 A. In 2003.

9 Q. When in 2003, sir?

10 A. In February. I think it was February the 7th --

11 February the 7th.

12 Q. February 7th? Why were you transferred?

13 A. Because I had a hit on my life.

14 Q. Okay. What does that mean to you, sir?

15 A. Ma'am?

16 Q. What does that mean?

17 A. That they threatened to kill me.

18 Q. Who?

19 A. I don't have the faintest idea. There was a note

20 under my -- a letter was -- well, a piece of paper was under

21 my door. We was on lockdown. And it told me, "Nigger, you

22 dead."

23 Q. Okay. Was it Mr. Runnels? He wasn't there, was he?

24 A. No, ma'am.

25 Q. You hadn't seen him since -- since that day?

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1 A. No, ma'am. Wasn't no inmates out, ma'am.

2 Q. Sorry?

3 A. Wasn't no -- no inmates out that day. We was all on

4 lockdown.

5 Q. So all the inmates were in lockdown, but a note got

6 slipped under your door threatening your life?

7 A. Yes, ma'am. An officer put it under there.

8 Q. Okay. Did you see the officer put it under there?

9 A. No, ma'am.

10 Q. Okay. But there was no inmates out walking around

11 the halls?

12 A. Wasn't no inmates out. We was all locked down.

13 Q. So when you were fed your food during the day, an

14 officer delivered it?

15 A. Yes, ma'am. We ate johnnies.

16 Q. I'm sorry?

17 A. We ate johnnies.

18 Q. That's the officer's name?

19 A. No, ma'am, that's what they fed us.

20 Q. What did they feed you?

21 A. Johnnies.

22 Q. Okay.

23 A. Sack lunches.

24 Q. Sack lunches, okay.

25 And what did the note say?

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1 A. "Nigger, you dead."  
2 Q. "Nigger, you're dead"?  
3 A. That's right.  
4 Q. Okay. What did you do with that note, sir?  
5 A. My cellie woke me up and said, "You need to look at  
6 this." So I got up, and he read it.  
7 Q. Okay. Did -- did the note -- do you know -- was  
8 your cell mate black also?  
9 A. No, he was Spanish.  
10 Q. Okay. So you felt like the note was obviously  
11 directed towards you, based on the words in the note?  
12 A. Yes, ma'am, it was based towards me.  
13 Q. Okay. And the note -- you said that after you got  
14 the note, you felt like a guard had put it there?  
15 A. (Witness nods head up and down)  
16 Q. Now, was that before or after you gave your second  
17 statement?  
18 A. That was after I gave my second statement.  
19 Q. That was after you gave your second statement?  
20 A. Yes.  
21 Q. Okay. And where is the note?  
22 A. I flushed it down the toilet. I didn't pay --  
23 really pay it no attention.  
24 Q. Okay. But then you -- but then you said that you  
25 were transferred because of it?

1 THE COURT: Don't talk to each other.  
2 MR. DURHAM: I think we're entitled to that.  
3 THE COURT: You're entitled to what?  
4 MR. DURHAM: Their investigation into the  
5 threat on his life.  
6 THE COURT: Okay. All right. Have somebody  
7 find out where it is and we'll continue with this exploration,  
8 then.  
9 MR. SIMS: I'll send Jack to go get somebody  
10 started.  
11 THE COURT: Okay.  
12 (Open court )  
13 Q. (BY MS. HAMILTON) Who did you talk to at AID?  
14 A. I seen -- I forget. I really forgot the name. It  
15 was a black officer and a white officer.  
16 Q. So two officers came to speak with you?  
17 A. Well, they send -- they was -- they was in -- they  
18 wasn't in uniform, they was in suits.  
19 Q. Plain clothes?  
20 A. I think it was Wilson.  
21 Q. Might be Wilson?  
22 A. Something like that, yeah. I forget the name.  
23 Q. Okay. And --  
24 A. They on the Bill Clements Unit.  
25 Q. And they worked on the Clements Unit?

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1 A. That's why I was transferred. I told -- and they  
2 already knew.  
3 Q. How -- they already knew?  
4 A. Yes, ma'am.  
5 Q. Who did you tell?  
6 A. I told AID.  
7 Q. AID?  
8 A. Internal affairs, yes, ma'am.  
9 Q. Okay. When did you tell them?  
10 A. That same -- that day they came and got me. They  
11 came and picked me up that Tuesday morning.  
12 Q. Did they take a statement from you about that?  
13 A. Yes, ma'am.  
14 Q. And where is that statement?  
15 A. I don't have the vaguest idea. All I know, they  
16 told me not to contact anyone, not to talk to anyone, and  
17 don't even contact nothing. I told them, I said, "Well, I  
18 need to talk to my mother." Said, "You can't even talk to  
19 your mother." Said, "We're going to put you on a train -- on  
20 a -- on a bus."  
21 MR. DURHAM: May we approach?  
22 THE COURT: Sure.  
23 (At the bench, on the record)  
24 MR. DURHAM: I think we're entitled to that.  
25 MR. SIMS: News to me.

1 A. Yes, ma'am.  
2 Q. Okay. And -- okay. Now, if this deal in the boot  
3 factory with Mr. Wiley, if that occurred on January 29th, you  
4 said this was a few days later that this note got --  
5 A. Well, you know, what -- when they locked -- they  
6 came and got me the second day -- about the second day after  
7 the death and took me to question me.  
8 Q. When you gave the second statement?  
9 A. Yes, ma'am.  
10 Q. That was on January 30th?  
11 A. Yes, ma'am.  
12 Q. Do you agree with me?  
13 A. Yes, ma'am.  
14 Q. Okay. Then after you gave the second statement, how  
15 soon after that was that note left for you?  
16 A. I think it was like the -- we still on lockdown. I  
17 think it was like the following day or the next day or  
18 somewhere around there. I really -- I really done forgot.  
19 But I -- you know, just -- you know --  
20 Q. Last day of January, beginning of February?  
21 A. No, it was still in January.  
22 Q. How soon after -- you told me that you were  
23 transferred out on February 7th?  
24 A. Yes, ma'am.  
25 Q. How soon after you told them about the note were you

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1 transferred out?  
 2 A. About three days after -- three days before they  
 3 transferred me.  
 4 Q. So it was probably around February 4th?  
 5 A. Somewhere around there, yeah, somewhere. February  
 6 the 4th or February the 7th, somewhere around there.  
 7 Q. Okay. And as soon as you found that note, how soon  
 8 after you found that note did the AID officer come see you?  
 9 A. Law came and got me that same day.  
 10 Q. That day, okay.  
 11 A. And I told them about it and --  
 12 Q. Did you show them the note?  
 13 A. No, I had threw it away.  
 14 Q. Okay. Did you recognize the handwriting on the  
 15 note?  
 16 A. No, ma'am, I didn't recognize the handwriting  
 17 because I didn't know who it was and, you know, I couldn't  
 18 ever figure out why would anybody want to hurt me and I hadn't  
 19 did anything.  
 20 Q. What kind of paper was it written on?  
 21 A. Looked like typing paper.  
 22 Q. Like just plain --  
 23 A. Yes, ma'am.  
 24 Q. -- paper? Okay. And was it handwritten or was it  
 25 typed?

1 A. When I was --  
 2 Q. -- about this?  
 3 A. When I was coming through Huntsville to come over  
 4 here, Sunday before last, I went to breakfast --  
 5 Q. Who threatened you, sir, or what happened that made  
 6 you feel like it was a threat?  
 7 A. Well, when they came to me and said --  
 8 MR. DURHAM: I'm going to object to the hearsay  
 9 nature of this statement.  
 10 THE COURT: Well, if everybody will let the  
 11 witness answer the question. We're talking over each other.  
 12 Ask your question again, please, sir.  
 13 Q. (BY MR. SIMS) You said you were threatened again.  
 14 Where at?  
 15 A. At the wall in Huntsville on transit.  
 16 Q. How did that come about, sir?  
 17 A. I was coming back from breakfast, this inmate ran up  
 18 behind me, rammed my head into the wall and busted my eye on  
 19 the side.  
 20 Q. What happened then?  
 21 A. I don't know nothing about no disciples, but he just  
 22 said he was a disciple and he was a friend.  
 23 MR. DURHAM: I'm going to object to the hearsay  
 24 nature of the response.  
 25 THE COURT: Overruled. I don't believe it's

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1 A. Well, it was a fancy handwriting. It wasn't typed,  
 2 it was real nice handwriting.  
 3 Q. Okay. Did you believe --  
 4 A. Ma'am?  
 5 Q. Did you believe the note?  
 6 A. Did I believe in it?  
 7 Q. Did you believe in what it said?  
 8 A. Yes, ma'am, I truly believed it.  
 9 Q. You felt that your life was being threatened?  
 10 A. Yes, ma'am.  
 11 MS. HAMILTON: Your Honor, we would ask to  
 12 reserve further examination of this witness.  
 13 THE COURT: Okay. You pass the witness?  
 14 MS. HAMILTON: Yes.  
 15 THE COURT: Okay.  
 16 REDIRECT EXAMINATION  
 17 BY MR. SIMS:  
 18 Q. Now, this note you got, you don't know where it came  
 19 from?  
 20 A. No.  
 21 Q. Could have even been your bunkie that put it there?  
 22 A. I doubt it, but -- it could have, but I don't think  
 23 so.  
 24 Q. Sure. Have you received any other threats since  
 25 then --

1 being offered for the truth. It's offered for the fact that  
 2 the man thought he was threatened.  
 3 Okay. Go ahead.  
 4 A. So I asked the officer that was standing there, I  
 5 said, "Did you see that?" And he just turned his back. So --  
 6 "Go on in your cell." So I went on in my cell. So I'm  
 7 bleeding, so I asked him, I said, "Will you take me to the  
 8 hospital" --  
 9 MR. DURHAM: At some point in time, he quit  
 10 answering the question --  
 11 THE COURT: Sustained.  
 12 MR. DURHAM: -- and he's giving a narrative.  
 13 THE COURT: Ask another question.  
 14 Q. (BY MR. SIMS) An inmate did it -- did it to you,  
 15 but there was a correctional officer there that turned their  
 16 back. Am I understanding you correctly?  
 17 A. Yes, sir.  
 18 Q. Did you report that incident to anyone else?  
 19 A. I told that -- called for a captain or some -- where  
 20 I can talk to somebody, but he never did do it. So when I did  
 21 get out to go to the hospital, I had to wait until they called  
 22 chow for me to go, they let transit go out to eat. So I went  
 23 to the infirmary and they -- I was scared, so I never -- never  
 24 did -- so they asked me, said, "Well, you're going to get a  
 25 case if you don't tell me what happened to you." So I told

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1 them, I said, "Well, I just bumped my head." So I was afraid  
2 to say --  
3 Q. You told somebody else you just bumped your head  
4 when asked about it?  
5 A. Told the nurse.  
6 Q. Any other thing happen that made you feel like you  
7 were threatened?  
8 A. No, sir. I've -- see, it's like this: I've been  
9 there a long time, but just listen to me, that's all I ask,  
10 just listen, please. I've been there a long time. And  
11 whatever I did, I did my crime -- I did time on it and I'm  
12 sorry about that. But I didn't have no part to none of this.  
13 I had a lot of respect for Mr. Wiley. He  
14 treated me like a friend and he was my supervisor. I didn't  
15 have no dealing with him getting killed. That's all I'm --  
16 MR. DURHAM: Nonresponsive --  
17 A. Just listen to me.  
18 MR. DURHAM: -- objection.  
19 THE COURT: Ask another question, please, sir.  
20 Q. (BY MR. SIMS) In regards to what you've testified  
21 to here today, have you said that because of any kind of  
22 threats?  
23 A. No, sir.  
24 MR. DURHAM: Bolstering, objection.  
25 THE COURT: Sustained.

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1 MR. DURHAM: Instruction?  
2 THE COURT: Jury is instructed to disregard.  
3 Q. (BY MR. SIMS) What do you feel is the most  
4 important thing you could do here today?  
5 A. The most important --  
6 MR. DURHAM: Your Honor, that's an open-ended  
7 question. By its very nature, it invokes --  
8 THE COURT: Okay. It's global. Sustained.  
9 Q. (BY MR. SIMS) In regards to what you have told  
10 these jurors here today, what have you tried to do, sir?  
11 MR. DURHAM: That's bolstering.  
12 THE COURT: Sustained.  
13 MR. SIMS: I'll pass the witness, Your Honor.  
14 RECROSS-EXAMINATION  
15 BY MS. HAMILTON:  
16 Q. Mr. Elkins, do you feel that the threat from the  
17 guards was valid, was real?  
18 A. Yes, ma'am.  
19 MR. SIMS: I would object, Your Honor. He just  
20 speculated it was from a guard, he didn't say for sure that it  
21 was.  
22 THE COURT: Sustained.  
23 Q. (BY MS. HAMILTON) Mr. Elkins, do you feel that the  
24 threat that you received was real?  
25 A. I truly believe it was real, madame.

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1 Q. Okay. Do you feel that when the guard turned his  
2 back on you at the wall unit (sic), did that cause you some  
3 fear?  
4 A. Well, let me put it like this here, I imagine you  
5 would probably feel the same way if someone slammed your head  
6 up against the wall and busted your head open. Yes, I feel  
7 like that was fear, but I can't understand why. I ain't hurt  
8 no one.  
9 Q. Okay. I'm not talking about the inmate that you  
10 said did that to you. You said that after the inmate did  
11 that, then the guard turned his back on you. Is that what he  
12 did, sir?  
13 A. He turned away. I guess he wasn't -- he wasn't  
14 concerned, or either he would let him die in there or what.  
15 Q. Did that cause you further fear?  
16 A. For someone to just -- I -- I said -- I said because  
17 he -- for someone to just walk up that you don't know, and  
18 just walk up and slam your head in there against the wall or  
19 against the door, you know, it's pretty fear because --  
20 Q. Do you recognize any of these people in the back of  
21 the courtroom?  
22 A. They was some of my supervisors, yes.  
23 Q. Some of the guards, or supervisors?  
24 A. Supervisors.  
25 Q. Okay.

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1 MS. HAMILTON: I'll pass the witness.  
2 REDIRECT EXAMINATION  
3 BY MR. SIMS:  
4 Q. Do you feel threatened by them being here today?  
5 A. No, sir.  
6 Q. Do you feel threatened at all being in here today  
7 and testifying in front of this jury?  
8 A. No, sir.  
9 Q. Were you ever afraid that you might be in trouble  
10 because possibly it was your knife that was used?  
11 MR. DURHAM: That's a leading question, Your  
12 Honor.  
13 THE COURT: Overruled.  
14 MR. DURHAM: Objection. It's not been  
15 established that it was his knife used, so the question  
16 assumes facts not in evidence.  
17 THE COURT: That is sustained.  
18 MR. DURHAM: Thank you.  
19 Q. (BY MR. SIMS) Because of the events of January 29th  
20 of 2003, did you ever feel concerned that you might be in  
21 trouble?  
22 A. Yes, sir.  
23 Q. Why?  
24 A. Because I feel like Mr. Wiley was hurt with my tool.  
25 Q. How do you feel about that, sir?

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1 MR. DURHAM: Objection, global question, Your  
2 Honor.  
3 THE COURT: Sustained.  
4 MR. SIMS: Pass the witness, Your Honor.  
5 THE COURT: Ms. Hamilton?  
6 MS. HAMILTON: Pass, Judge.  
7 THE COURT: Okay, you can step down, sir.  
8 Do any of you folks want a break?  
9 (No response)  
10 Okay. Call your next witness.  
11 MR. SIMS: Tony Irvine, Your Honor.  
12 THE COURT: Mr. Irvine, if you would come right  
13 around here, please, sir, and take a seat on the witness  
14 stand.  
15 Mr. Irvine, once you're comfortable, if you  
16 would just sort of straighten that mike out, pull it to you a  
17 little bit so that you can speak into it.  
18 Okay, thanks.  
19 TONY IRVINE,  
20 having been first duly sworn, testified as follows:  
21 DIRECT EXAMINATION  
22 BY MR. SIMS:  
23 Q. Would you state your name, please, sir?  
24 A. Tony Irvine.  
25 Q. Where are you currently residing?

1 Q. I'm sorry, I didn't catch the last part.  
2 A. March of 2004.  
3 Q. Okay. Just the general category of who you felt  
4 threatened by, who was that?  
5 MR. DURHAM: Pardon me, Your Honor. I'm going  
6 to object to that as calling for a hearsay response and  
7 speculation.  
8 THE COURT: Rephrase the question, please.  
9 Q. (BY MR. SIMS) Well, I'll just -- did you know the  
10 individual that threatened you?  
11 A. No, I didn't know them, other than what they told  
12 me.  
13 Q. What was that individual's status at -- I'm  
14 assuming -- you said it happened at the unit, so I'm assuming  
15 it happened inside the unit?  
16 A. Yes, sir. He -- to my knowledge, he was a gang  
17 member of the gang called the Crypts.  
18 MR. DURHAM: Speculation, Your Honor, and also  
19 hearsay.  
20 THE COURT: Overruled.  
21 MR. DURHAM: May I be heard on that?  
22 THE COURT: Sure. The reason I overruled it,  
23 and I'll tell you, is because the first words out of the  
24 witness's mouth were "to my knowledge, he is a member."  
25 MR. DURHAM: That who is a -- that the person

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1 A. Bill Clements Unit.  
2 Q. And that is --  
3 A. Amarillo.  
4 Q. -- your residence; is that correct?  
5 A. Yes, sir.  
6 Q. You're not on transport anywhere, transfer? You're  
7 not on transfer from another unit?  
8 A. Yes, I came from another unit.  
9 Q. Okay. What unit did you come from?  
10 A. Huntsville Unit.  
11 Q. And you're currently in the prison system for a  
12 credit card abuse conviction, a theft from person conviction,  
13 an aggravated robbery, a robbery, and another aggravated  
14 robbery and obstruction; is that correct?  
15 A. No, sir, the first three charges you read out were  
16 old charges. I'm currently in for two counts of aggravated  
17 robbery, one robbery, and obstruction.  
18 Q. Okay. Has anyone threatened you about your  
19 testimony today?  
20 A. Yes, sir.  
21 Q. When did that happen, sir?  
22 A. It happened in Huntsville at the Wynne Unit.  
23 Q. When did that occur, sir?  
24 A. Around March of 2003 -- 2004, I meant to say, excuse  
25 me.

1 who threatened him is a member?  
2 THE COURT: Yes, sir. Would you like to take  
3 the witness on voir dire?  
4 MR. DURHAM: Yes, I would.  
5 THE COURT: Go right ahead.  
6 VOIR DIRE EXAMINATION  
7 BY MR. DURHAM:  
8 Q. Do you know this person to be a member of the  
9 Crypts?  
10 A. This is something that I learned while --  
11 Q. Sir, do you know this person to be a member of the  
12 Crypts? It's a yes-or-no --  
13 A. Not beforehand, no.  
14 MR. DURHAM: That's my point, Your Honor. I ask  
15 the testimony be stricken and jury instructed.  
16 THE COURT: Overruled. Go ahead.  
17 DIRECT EXAMINATION - Cont'd  
18 BY MR. SIMS:  
19 Q. When did you arrive to the Bill Clements Unit this  
20 time?  
21 A. This time here?  
22 Q. Yes, sir.  
23 A. I've been on the Clements Unit approximately 30 days  
24 now, I would say. I got there on the 28th, I believe.  
25 Q. You were previously housed on that farm; is that

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1 correct?  
2 A. Yes, sir.  
3 Q. When was that, sir?  
4 A. I would say I got there around September --  
5 September or October of 2002.  
6 Q. When were you shipped off that farm?  
7 A. I would say January the 30th of 2003, the day after  
8 the incident happened.  
9 Q. What was your work assignment?  
10 A. I worked in the boot factory. I ran a toe lasting  
11 machine.  
12 Q. Are you able to see what's been marked for  
13 identification purposes as State's Exhibit No. 50 from where  
14 you're at, sir?  
15 A. Yes, sir.  
16 Q. Are you able to recognize that, sir?  
17 A. Yes, sir.  
18 Q. What does that represent to you, sir?  
19 A. It's a graph of the boot factory.  
20 Q. Now, you said you were working in lasting; is that  
21 correct?  
22 A. Yes, toe lasting.  
23 Q. Where is that on this particular diagram, sir? I'll  
24 come up here and I'll just let you point it to me, and then  
25 I'll back away from you again.

1 A. I would say maybe three or four days at the most.  
2 Q. And why is that, sir?  
3 A. To my knowledge, Mr. Wiley was on second shift and I  
4 worked first shift, and he had just been transferred to the  
5 first shift boot factory when I met him. I had heard of him  
6 before then, but I -- I had just met him when he came to first  
7 shift.  
8 Q. So he -- to your knowledge, he had just been down  
9 there for three or four days on the first shift?  
10 A. Yes, I would say three or four days.  
11 Q. Now, do you know Travis Runnels?  
12 A. Yes, sir.  
13 Q. See him here in the courtroom today?  
14 A. Yes, sir.  
15 Q. Would you please point him out and describe what  
16 he's wearing?  
17 A. He's wearing a maroon shirt, a yellow and black tie,  
18 tan khaki pants.  
19 Q. How do you know this defendant?  
20 A. I know him from the boot factory.  
21 Q. There at the Clements Unit?  
22 A. Yes, at the Bill Clements Unit.  
23 Q. How long had you known the defendant at that time?  
24 A. About the same as I know Mr. Wiley.  
25 Q. Why is that, sir?

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1 A. I was right here between 6 and 7, I would say.  
2 Q. Between 6 and 7?  
3 A. Yes, sir.  
4 Q. Here, right in here? (Indicating)  
5 A. Yes, sir.  
6 Q. If it's all right with you, I'm going to put your  
7 initials there.  
8 Would that be the correct place, sir, where I  
9 put "TI"?  
10 A. Yes, sir.  
11 Q. What was your job there, sir?  
12 A. My job was to take boots off the rack and put them  
13 in the toe lasting machine and to -- the machine brought the  
14 toe of the boot together and glued the end of it together.  
15 Q. Who does the work there in the boot factory?  
16 A. Inmates.  
17 Q. Okay. Are there other people there?  
18 A. Yes, sir.  
19 Q. Who else is there besides inmates?  
20 A. Security, supervisors.  
21 Q. Now, do you know Stan Wiley or Mr. Wiley?  
22 A. Yes, sir.  
23 Q. Where is that from? Where do you know him from?  
24 A. From the Bill Clements Unit in the boot factory.  
25 Q. About how long had you known Mr. Wiley, sir?

1 A. Mr. Runnels hadn't -- he wasn't there when I first  
2 got there. He previously had came to work around the same  
3 time Mr. Wiley had started.  
4 Q. Do you know where Mr. Runnels came from?  
5 A. No, sir, I do not.  
6 MR. DURHAM: Based on hearsay. I object.  
7 THE COURT: Well, his answer was no.  
8 Q. (BY MR. SIMS) Were you working around 7:30 on  
9 January 29th, 2003, in close proximity to some other inmates?  
10 A. Yes, I was.  
11 Q. Who were they, sir?  
12 A. I don't know any real names, but there was a guy  
13 named J.R., Mr. Elkins, and J.J.  
14 Q. Now, while you were standing there, or working there  
15 with Mr. Elkins about that time of day, what, if anything, do  
16 you recall happening?  
17 A. That particular morning, me and Mr. Elkins and a  
18 couple of more other guys that I just named were all standing  
19 around having cups of coffee, speaking of the football game,  
20 as I recall.  
21 Q. What happened then?  
22 A. We all split up and went to our work areas, as the  
23 one I showed you on the poster there. And prior to that, the  
24 boots that we work on in the factory had got like behind, so  
25 in the process, a lot of times when the boots get behind,

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1 other inmates may help to catch up, catch the line back up.  
2 Q. You've kind of got an assembly line out there for  
3 putting the boots and shoes together; is that correct?  
4 A. That's correct.  
5 Q. And so what happened when you got behind?  
6 A. Well, when we got behind, me, myself, I was looking  
7 for a supervisor to get some help in the area. And while I  
8 was doing that, I observed Mr. Runnels speaking to Mr. Elkins.  
9 And Mr. Elkins gave him a knife that we use to cut the boots  
10 with.  
11 So at that time, I felt like Mr. Runnels was  
12 going to come to the -- the line where we was working and help  
13 us to catch up on the boots.  
14 Q. Now, at the time that that happened, did you know --  
15 the inmate that got the knife from Mr. Elkins, did you know  
16 him by name?  
17 A. No, sir, I didn't.  
18 Q. Not at that time?  
19 A. No, sir.  
20 Q. Do you see that inmate in the courtroom here today?  
21 A. Yes, sir.  
22 Q. Point him out, please.  
23 A. (Witness complies)  
24 Q. The same one you previously identified earlier; is  
25 that correct?

1 Q. Okay. Now, where are you referring to the trimming  
2 tables?  
3 A. Okay. We had trimming tables like ran up here, all  
4 the way around here. (Indicating)  
5 Q. From where 26 is on up toward 30?  
6 A. Right.  
7 Q. Okay. What else were you going to tell us?  
8 A. Well, upon that time, I was -- I turned my attention  
9 to Mr. Wiley to ask -- to go and ask him about getting some  
10 help for the assembly line.  
11 Q. Where was Mr. Wiley when you did that, sir?  
12 A. He was on the edge of one of the tables, at the end,  
13 towards No. 30.  
14 Q. One of the trimming tables --  
15 A. Yes, sir.  
16 Q. -- that you indicated was in through here?  
17 (Indicating)  
18 A. Yes, sir.  
19 Q. And you said back up here toward this No. 30?  
20 A. Yes, sir.  
21 Q. Okay. What happened then?  
22 A. As I turned to go to Mr. Wiley, I seen Mr. Runnels  
23 headed towards him also, so out of respect, I slowed up to let  
24 Mr. Runnels go ahead and approach Mr. Wiley. And as he  
25 approached him, I seen him raise the knife up and tilt

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1 A. Yes, sir.  
2 Q. The defendant, Mr. Runnels.  
3 Okay. Got the knife, what happens then?  
4 A. Well, prior to that, after I observed Mr. Elkins  
5 giving Mr. Runnels the knife --  
6 MR. DURHAM: I'm sorry, nonresponsive. The  
7 question was: What happens then? He said "Prior to that," so  
8 that would not be a responsive answer.  
9 THE COURT: Sustained.  
10 Q. (BY MR. SIMS) Had you seen what the defendant was  
11 doing earlier that day, what kind of job he had?  
12 A. He was a janitor, to my knowledge. He was pushing a  
13 broom around.  
14 Q. Once you had seen Mr. Elkins give the knife to the  
15 defendant, what happened?  
16 A. Once I seen Mr. Elkins give the knife to the  
17 defendant, I observed the defendant walking around to the  
18 right side of the trimming tables that we have behind me. And  
19 upon that --  
20 Q. Okay. Let me interrupt you. You said the trimming  
21 table is behind you. We've got -- I'm going to stand up and  
22 hold it up, I guess, so you can point to it.  
23 We've got you working in this area, correct?  
24 (Indicating)  
25 A. Yes, sir.

1 Mr. Wiley's head back and cut his throat.  
2 Q. What happened at that point, sir?  
3 A. At that point, Mr. Wiley grabbed his neck and he  
4 turned and looked at Mr. Runnels, and then he immediately  
5 started walking towards the main office.  
6 Q. And from this location here around the 30, where is  
7 that main office on this diagram, sir?  
8 MR. SIMS: I'm sorry, I'm doing that and you  
9 folks can't see.  
10 Q. (BY MR. SIMS) From here where -- this is where you  
11 say the incident happened?  
12 A. Yeah, this area here.  
13 Q. Where is the --  
14 A. The main office is up here. Mr. Wiley came between  
15 the machines and went up towards the office.  
16 Q. Okay. Then what happened?  
17 A. I gave my attention back to Mr. Runnels at the time,  
18 and I observed him taking a white rag and wiping the knife off  
19 and walking back towards the tables.  
20 Q. Walking back toward where, sir?  
21 A. Towards the trimming tables.  
22 Q. Okay. Now, where is that on the diagram here?  
23 A. The trimming tables was here, and I observed him  
24 walking back this way. (Indicating)  
25 Q. Back toward No. 24 on the diagram?



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1 A. Yes, sir.  
2 Q. What's the next thing you remember about that day?  
3 A. After Mr. Runnels was wiping the knife off, I kind  
4 of took my eyes off of him for a second. I was looking back  
5 up to see where -- what was going on with Mr. Wiley, and then  
6 I observed Mr. Wiley had a -- by that time, he had got a --  
7 one of the green inmate jackets that we wear on the unit and  
8 he had it underneath his neck and he was speaking to another  
9 supervisor and he was bleeding pretty bad.  
10 So I turned to look back to see where  
11 Mr. Runnels was, and at that time, I observed him sitting down  
12 on a blue ladder that was over by No. 24 on the board.  
13 Q. And what did you do at that point, sir?  
14 A. At that point, I -- I got out of the -- I moved out  
15 of the way, came back up towards, I would say by No. 12  
16 machine. And then I observed --  
17 Q. Which is down toward the end?  
18 A. Yes, sir.  
19 Q. I'm sorry again. Down toward the end down here  
20 (indicating) --  
21 A. Yes, sir.  
22 Q. -- is that correct?  
23 A. Yes, sir.  
24 Q. Okay.  
25 A. Then I observed Mr. Wiley at the time, and two of

1 supervisor.  
2 Q. Did you ever have any further communications with  
3 Mr. Elkins or anyone regarding this right then?  
4 A. No, sir.  
5 MR. SIMS: Pass the witness, Your Honor.  
6 CROSS-EXAMINATION  
7 BY MR. DURHAM:  
8 Q. Mr. Irvine, your original statement said you did not  
9 want to make a statement if you had to testify in court,  
10 correct?  
11 A. Yes, sir.  
12 Q. Okay. Now, Mr. Runnels didn't -- has not threatened  
13 you, has he?  
14 A. No, sir.  
15 Q. There's no question that he's the person you saw who  
16 attacked and killed Mr. Wiley, is there?  
17 A. No, sir.  
18 Q. Okay. And he made no attempt to escape; is that  
19 correct or incorrect?  
20 A. No, sir.  
21 Q. He just sat and waited for the authorities to come?  
22 A. Yes, sir.  
23 Q. Did you ever hear any confrontation between  
24 Mr. Wiley and Mr. Runnels?  
25 A. No, sir.

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1 the other supervisors, or maybe more, escorted him towards  
2 the -- the exit door. But as he got to the exit door, he came  
3 back over towards the work area where we was at first, which  
4 is -- I would say between 10 and 7, as like he was looking  
5 around for Mr. Runnels or whoever, you know. That's what I  
6 took it to be.  
7 MR. DURHAM: Then I'm going to object to  
8 speculation, Your Honor, what Mr. Runnels (sic) was doing.  
9 THE COURT: Sustained.  
10 Q. (BY MR. SIMS) He walked back up into the shop,  
11 Mr. Wiley did, correct?  
12 A. Yes, sir. He walked back over to the work area  
13 where the incident almost took place.  
14 Q. What, if anything, did he do when he got there?  
15 A. He just stared around. He looked at several  
16 inmates, looked at me, several other inmates that was there.  
17 And then at the time, the other supervisor came and got him  
18 and told him - led him, get him out of here and get him some  
19 help.  
20 MR. DURHAM: Objection, that's nonresponsive to  
21 the question, it's also hearsay.  
22 THE COURT: Sustained.  
23 Q. (BY MR. SIMS) Without saying what was told, what  
24 happened then?  
25 A. Mr. Wiley was escorted out the exit door by a

1 Q. Would it surprise you if there had been?  
2 A. No, sir, it wouldn't.  
3 Q. Wouldn't surprise you. Okay. Have you ever had any  
4 trouble with Mr. Runnels -- you didn't know him as Travis  
5 Runnels, did you?  
6 A. No, sir.  
7 Q. You just knew him as another inmate?  
8 A. Yes, sir.  
9 Q. And there's a bunch -- there's several out there,  
10 many people out there at the Clements Unit?  
11 A. Yes, sir.  
12 Q. And you don't know all of them?  
13 A. Yes, sir.  
14 Q. Okay. And you're not trying to tell this jury that  
15 he's associated with the Crypts, are you?  
16 A. I couldn't say he was associated with them, but I --  
17 I was --  
18 Q. That was my question. Are you trying to make that  
19 impression to them? You have not seen him wearing gang  
20 colors, have you?  
21 A. No, sir.  
22 Q. You didn't know him well enough to even know who he  
23 was, did you?  
24 A. No, sir.  
25 Q. So you would have no -- absolutely no idea about his

<p style="text-align: right;">Page 215</p> <p>1 character for violence before that, would you?</p> <p>2 A. No, sir.</p> <p>3 Q. You would have no idea about his character for being</p> <p>4 peaceable with other prisoners, would you?</p> <p>5 A. No, sir.</p> <p>6 Q. You would have no idea about his character for</p> <p>7 getting along with other guards and supervisors, would you?</p> <p>8 A. No, sir.</p> <p>9 Q. All you're doing is testifying what you saw, and you</p> <p>10 saw this man kill another man, didn't you?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And it was unfortunate and you have a hard time</p> <p>13 testifying to it, as any of us would; is that correct?</p> <p>14 A. Yes, sir.</p> <p>15 MR. DURHAM: I have no further questions of the</p> <p>16 witness.</p> <p>17 MR. SIMS: No further questions, Your Honor.</p> <p>18 THE COURT: Okay, Mr. Irvine, you can step</p> <p>19 down, sir. Thank you.</p> <p>20 Break?</p> <p>21 (No reponse)</p> <p>22 THE COURT: Okay. Call you next witness.</p> <p>23 MR. DURHAM: I think the lawyers need one if</p> <p>24 they don't.</p> <p>25 MS. HAMILTON: Please.</p>	<p style="text-align: right;">Page 217</p> <p>1 correct?</p> <p>2 A. Correct.</p> <p>3 Q. Previously, you were housed, and your permanent</p> <p>4 housing was at the Clements Unit; is that correct?</p> <p>5 A. Yes.</p> <p>6 Q. Back in January of 2003, would that be correct?</p> <p>7 A. Yes.</p> <p>8 Q. How long had you been at the Clements Unit at that</p> <p>9 time?</p> <p>10 A. Probably about four years.</p> <p>11 Q. Now, you're currently serving a sentence in the</p> <p>12 prison system for murder?</p> <p>13 A. Yes.</p> <p>14 Q. And also for burglary of a habitation; is that</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. On the habitation, you received a seven-year</p> <p>18 sentence, and on the murder conviction you received a life</p> <p>19 sentence; is that correct?</p> <p>20 A. Ninety-nine.</p> <p>21 Q. Ninety-nine, okay.</p> <p>22 Those are the two sentences you're being housed</p> <p>23 for; is that correct?</p> <p>24 A. Yes.</p> <p>25 Q. Now, back in January 29th of 2003, were you assigned</p>
<p style="text-align: right;">Page 216</p> <p>1 THE COURT: Okay. Ten minutes.</p> <p>2 (Break)</p> <p>3 THE COURT: Okay. Let's proceed.</p> <p>4 MR. SIMS: Eugene Johnson.</p> <p>5 THE COURT: Eugene Johnson.</p> <p>6 If you would come right up here, Mr. Johnson,</p> <p>7 and take a seat there on the witness stand.</p> <p>8 All right. Mr. Johnson, pull that microphone</p> <p>9 up a little bit so it's sort of aimed at you. There you go.</p> <p>10 And just kind of speak -- you don't have to get right up to</p> <p>11 it, but speak sort of toward it.</p> <p>12 All right. Thank you.</p> <p>13 MR. SIMS: Thank you, Judge.</p> <p>14 <u>EUGENE JOHNSON,</u></p> <p>15 having been first duly sworn, testified as follows:</p> <p>16 <u>DIRECT EXAMINATION</u></p> <p>17 <u>BY MR. SIMS:</u></p> <p>18 Q. Would you state your name, please?</p> <p>19 A. Eugene Johnson.</p> <p>20 Q. Where are you currently residing?</p> <p>21 A. Hughes Unit. Hughes Unit.</p> <p>22 Q. And currently right now, you're being kept at the</p> <p>23 Clements Unit, right?</p> <p>24 A. Clements Unit, yes.</p> <p>25 Q. You're on transfer from the Hughes Unit; is that</p>	<p style="text-align: right;">Page 218</p> <p>1 a particular work duty there at the Clements Unit?</p> <p>2 A. Yes, I was.</p> <p>3 Q. What was it that you were doing at that time, sir?</p> <p>4 A. I was nailing on -- stapling on insoles for the</p> <p>5 boots.</p> <p>6 Q. So you were working in the boot factory?</p> <p>7 A. Yes.</p> <p>8 Q. Approximately how long had you been working in the</p> <p>9 boot factory?</p> <p>10 A. Probably two and a half years.</p> <p>11 Q. Now, they had done some rearranging of shifts at the</p> <p>12 boot factory; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. On that particular day, what shift did you work?</p> <p>15 A. First shift, A.M.</p> <p>16 Q. What shift had you been working prior to that?</p> <p>17 A. P.M.</p> <p>18 Q. Did you know -- at that time, did you know a Travis</p> <p>19 Runnels?</p> <p>20 A. Not personally, no.</p> <p>21 Q. Okay. Did you know a Stan Wiley, or Mr. Wiley?</p> <p>22 A. Yes, I did.</p> <p>23 Q. How do you know Mr. Wiley?</p> <p>24 A. I worked for him at the factory.</p> <p>25 Q. In what capacity, sir, did he serve?</p>

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1 A. Did he serve?  
2 Q. Yes.  
3 A. He was line boss over the -- over the lasting  
4 machines out there.  
5 Q. For approximately how long had you worked for  
6 Mr. Wiley?  
7 A. Most all the time I was there.  
8 Q. Okay. So most of your four years, he had been a  
9 supervisor to you in some --  
10 A. No, for the time I worked at the -- at the factory,  
11 for about two and a half years, I guess.  
12 Q. What happened to the P.M. shift on the boot factory?  
13 A. They just decided to end it and just do first shift  
14 only.  
15 Q. So that's how you wound up on the first shift that  
16 morning, correct?  
17 A. Yes, sir.  
18 Q. Did Mr. Wiley make that transfer also?  
19 A. Yes, he did.  
20 Q. About what time do you remember starting work that  
21 day, sir?  
22 A. Oh, 5:30 or six o'clock.  
23 Q. Was that pretty much a typical morning of what time  
24 you would start?  
25 A. Yes, it is.

1 A. Right about here. (Indicating)  
2 Q. Along in here? (Indicating)  
3 A. Yes, sir.  
4 Q. And you said you were at a table?  
5 A. Yes. There was a long table right here and racks  
6 running along this wall right here, and racks running right  
7 here. (Indicating) And --  
8 Q. So you've got the table between running between 26  
9 and 30 and the racks along 24 to 31; is that correct?  
10 A. Yes, sir.  
11 Q. Okay. If it's all right with you, I'm going to put  
12 your initials, "EJ," right here. Would that be approximately  
13 the place that you were working?  
14 A. Yes, sir.  
15 Q. Okay. Now, you indicated to the jury where you saw  
16 Mr. Wiley and the other inmate talking. What was happening at  
17 that point?  
18 A. Well, what roughly it was, I just heard Mr. Wiley  
19 said -- saying something like -- he said, "I don't really  
20 care, just go on over there and do what I asked."  
21 Q. Had you seen that particular inmate before?  
22 A. Yes, on the unit. We was in -- I was moved several  
23 times, and he was in a section I was at one time, and just,  
24 you know, casual -- seeing each other casually, you know,  
25 offhand.

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1 Q. At some point during that morning shift, did you  
2 observe Mr. Wiley having a conversation with another inmate?  
3 MR. DURHAM: Leading question, objection.  
4 THE COURT: Overruled.  
5 Q. (BY MR. SIMS) Did you see Mr. Wiley having a  
6 conversation with another inmate?  
7 A. Yes, sir.  
8 Q. Let's pick up with that. Where was this taking  
9 place? Where did you see Mr. Wiley and the other inmate?  
10 A. There's a table that was right there where I was  
11 working that I put the -- put the staples and gun on and stuff  
12 like that. So at the end of the table, between it and a row  
13 of racks is where they were speaking.  
14 MR. SIMS: May I approach, Your Honor?  
15 THE COURT: Sure.  
16 Q. (BY MR. SIMS) I'm going to show you what's been  
17 marked for identification purposes as State's Exhibit No. 50,  
18 and I'll ask you if you're able to recognize that, sir?  
19 A. Yes, I am. That's the factory.  
20 Q. That's the boot factory?  
21 A. Yes, sir.  
22 Q. While I'm up here, why don't you, if you will, point  
23 so the ladies and gentlemen of the jury can see -- sorry if I  
24 blocked your view -- approximately where on this diagram it  
25 was that you were working.

1 Q. So you didn't know him from work, you knew him from  
2 where your housing area was at one point?  
3 A. Right. And like I didn't know him personally.  
4 Q. Do you see that same person here in the courtroom  
5 today?  
6 A. Yes, I do.  
7 Q. Would you please point him out and describe what  
8 he's wearing?  
9 A. Yes. He's at the defendant's table. He's wearing a  
10 red shirt, glasses, and spotted tie.  
11 Q. What happened at that point with the inmate and  
12 Mr. Wiley?  
13 A. I guess he went on over to where he was supposed to  
14 go and --  
15 Q. What did you do?  
16 A. I turned around and continued working and --  
17 Q. What's the next thing you recall that day besides  
18 working?  
19 A. All right. I had my -- slightly to the side,  
20 nailing on the insole -- stapling on the insoles, and then Mr.  
21 Wiley kind of made a lunging motion back off beside me like  
22 that, and it caught my attention. I turned around and looked  
23 and he like kind of bounded two or three steps. He turned  
24 around and he had his hand like this (indicating), and just  
25 was blood coming all out like that. And he kind of turned

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1 like that and then he looked back -- I looked the direction he  
2 was looking at and I saw Mr. Runnels standing there with the  
3 blade by his hand -- by his side. And then --  
4 Q. Was there anyone else standing around there?  
5 A. Not where Mr. Wiley or Mr. Runnels was.  
6 Q. Did you see anyone else in close proximity to  
7 Mr. Wiley with a knife?  
8 A. No, sir.  
9 Q. Once he jumped up, Mr. Wiley, what happened?  
10 A. Well, the first thing I did, I moved out of the way.  
11 I didn't know what was going on. I didn't know if something  
12 else was going to happen or what, you know. I kind of moved  
13 over to an area by myself.  
14 And then when I looked back, I saw Mr. Wiley  
15 heading towards the office area, and then I saw Mr. Runnels  
16 over by the lavatory, and then a -- he was I believe washing  
17 his hands, and then he went and got a drink of water.  
18 Q. And then what's the next thing you saw happen?  
19 A. Mr. Wiley, they was escorting him back by the tool  
20 room area, and then several of us just kind of got, you know,  
21 gathered up in groups, you know, and just said, "You see  
22 that?", and stuff, you know.  
23 MR. DURHAM: Objection. Your Honor, the  
24 conversation would be hearsay.  
25 THE COURT: Sustained.

1 Q. But you -- you used the word "argument" in your  
2 statement. Did you or did you not?  
3 A. I only heard the one side. I only heard Mr. Wiley  
4 say what he said.  
5 Q. Then you don't know what -- what was -- you heard  
6 all of it or parts of it?  
7 A. I only heard Mr. Wiley reply, "I don't care, just go  
8 on over there and do your job."  
9 Q. Was that the only talk they had that day, or do you  
10 know?  
11 A. I don't know.  
12 Q. You weren't around close enough to hear all of it,  
13 were you?  
14 A. No, sir.  
15 Q. It wasn't -- at least they weren't screaming and  
16 shouting and waving their fists at each other?  
17 A. No, sir.  
18 Q. But something was going on?  
19 A. Obviously.  
20 Q. Obviously. Okay. Now, there's something in your  
21 statement that kind of puzzled me. You said that you were the  
22 only white guy there, so you moved away to a safe area.  
23 A. Yes.  
24 Q. What did you mean by that, please, sir?  
25 A. Well, there's -- I didn't know what was going down.

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1 Q. (BY MR. SIMS) Approximately how far were you from  
2 Mr. Wiley when he jumped off this table?  
3 A. Seven foot.  
4 Q. So was it a table that's about the size that we're  
5 using for counsel tables, a little bit bigger?  
6 A. It would be -- it would be maybe two or three foot  
7 longer than the counsel tables.  
8 Q. You were on one end and Mr. Wiley was on the other?  
9 A. Yes.  
10 MR. SIMS: Pass the witness, Your Honor.  
11 CROSS-EXAMINATION  
12 BY MR. DURHAM:  
13 Q. Mr. Johnson, I just have a few questions for you,  
14 but then I'm sure you've heard lawyers say that before,  
15 haven't you?  
16 A. Yes, sir.  
17 Q. And it proved to be more than a few, at least more  
18 than you thought were a few. Would that be a fair statement?  
19 A. Yes.  
20 Q. I'm going to try and keep it short and get to the  
21 point here.  
22 The fact -- is it or is it not a fact that  
23 Mr. Wiley and Mr. Runnels had some type of verbal altercation,  
24 they raised their voices at each other?  
25 A. I did not hear them raise their voices.

1 There's a lot of animosity towards white people in general,  
2 and I -- I didn't know if it was an isolated thing or maybe  
3 something going down. I just got over out of the way.  
4 Q. How is there a lot of animosity towards white  
5 people?  
6 A. In prison, that is, not out -- I didn't say out  
7 here, in prison.  
8 Q. And how is that expressed?  
9 A. Well, you mean in general or --  
10 Q. Yeah, in general. I mean, do the blacks and whites  
11 just not get along?  
12 A. No. I have several black friends.  
13 Q. Okay. Speaking of black friends, you had just been  
14 moved to Mr. Runnels' unit?  
15 A. No, I've -- I've been here --  
16 Q. You had been on his unit for some period of time?  
17 A. Yes.  
18 Q. How long had you been on the same unit as Travis?  
19 A. Probably four years, maybe four and --  
20 Q. So you had known him for four years?  
21 A. I didn't know him, no.  
22 Q. Well, you had seen him around?  
23 A. Here and there, yes.  
24 Q. Yeah.  
25 A. You pass people in the hallway and around.

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1 Q. But you really do know -- if you're in prison very  
2 much, you really do know the troublemakers, don't you?  
3 A. You can tell a lot of the hardheads, you know.  
4 Q. They get in trouble, don't they?  
5 A. Yes.  
6 Q. They get written up for fighting?  
7 A. Yes.  
8 Q. Okay. And you kind of steer clear of them because  
9 you know that's the way they are?  
10 A. Yes.  
11 Q. Did you find Travis to be one of the hardheads?  
12 A. Like I say, I didn't know the gentleman enough to --  
13 to judge one way or the other.  
14 Q. But, sir, if he had been a troublemaker, you would  
15 have made it your business to know where you could avoid him,  
16 wouldn't you?  
17 MR. SIMS: Objection, Your Honor, asked and  
18 answered.  
19 THE COURT: Overruled.  
20 Q. (BY MR. DURHAM) If he had been one of the  
21 hardheads, you would have made it your business to know where  
22 you could avoid him; isn't -- is that a fair assumption?  
23 A. Yes, it is.  
24 Q. Okay. So as far as you know, he was not a  
25 troublemaker?

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1 A. Not that I know of.  
2 Q. Okay. You had never had any trouble with him?  
3 A. No, sir.  
4 Q. And you don't know what the trouble that he was  
5 having with Mr. Wiley exactly stemmed from, do you?  
6 A. No, sir.  
7 Q. And you heard parts of the conversation?  
8 A. Yes.  
9 Q. And you -- you actually didn't quote in your  
10 statement exactly what it was because you used the words --  
11 and correct me if I'm wrong on this -- you used the words,  
12 "Wiley said something like, 'I don't care, go over there and  
13 do it.'" Those were not his exact words. That's a paraphrase  
14 of what he said, correct?  
15 A. As far as I know, that's what he said.  
16 Q. Well, you used the word in your statement, you said,  
17 "something like that," as opposed to "he said." Do you see  
18 there's a difference?  
19 A. Well, he might not have phrased it word for word  
20 exactly like that.  
21 Q. That's exactly my point. That's not exactly what he  
22 said. You put down your impression of what he said, right?  
23 A. I know what he said, I was there.  
24 Q. Okay. Then that's an exact quote?  
25 A. Yes.

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1 Q. Okay. So when you used the word "he said something  
2 like," that was just a misstatement?  
3 A. Yes.  
4 Q. Okay. So the misstatement that was made two years  
5 ago on the same day of the incident is different today,  
6 correct?  
7 A. He said what he said.  
8 Q. Well, but two years ago, or three years ago, almost  
9 three years ago, your words was, "he said something like," and  
10 today it's an exact quote. It's changed in two years and nine  
11 months -- ten -- ten months from something like to exact,  
12 correct?  
13 A. I'll stand by my statement -- by my written  
14 statement.  
15 Q. You stand by your written statement, which says, "he  
16 said something like."  
17 A. Okay.  
18 Q. Is that correct?  
19 A. Yes.  
20 Q. Okay. All right. And Travis was walking away,  
21 washed his hands, sat down and waited; is that correct?  
22 A. I saw him go over and wash his hands and take a  
23 drink of water, and that was the last I saw of him.  
24 Q. All right. Did you -- you didn't see where he went  
25 from there?

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1 A. No, I didn't.  
2 Q. He didn't seem to be running toward the door to get  
3 away?  
4 A. He was very calm.  
5 Q. Didn't wave the knife that he had in his hand?  
6 A. No. The only time I saw the knife was when he was  
7 standing there with it by his side.  
8 Q. Okay. Did you see blood on the knife?  
9 A. No, I didn't.  
10 Q. Thank you, sir.  
11 MR. DURHAM: I'll pass the witness.  
12 MR. SIMS: Nothing else, Your Honor.  
13 THE COURT: Okay. You can step down,  
14 Mr. Johnson. Thank you.  
15 Call your next witness.  
16 MR. SIMS: Phillip Yow. He has not been sworn,  
17 Your Honor.  
18 THE COURT: Come right up here and take a seat  
19 on the witness stand, if you would, please, sir.  
20 Okay. Would you raise your right hand and take  
21 the oath of a witness, please?  
22 (Witness sworn)  
23 THE COURT: Okay. Thank you. Once you're  
24 comfortable and where you're going to be, sort of aim that  
25 microphone toward your mouth. You don't have to get right up

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1 to it or anything, just keep it in the general vicinity and  
 2 speak toward it. Thank you.  
 3 PHILLIP YOW,  
 4 having been first duly sworn, testified as follows:  
 5 DIRECT EXAMINATION  
 6 BY MR. SIMS:  
 7 Q. Would you state your name, please, sir?  
 8 A. My name is Phillip Yow.  
 9 Q. Mr. Yow, where are you currently residing?  
 10 A. At the Clements Unit.  
 11 Q. What is your status there?  
 12 A. As far as line class or what I'm there for?  
 13 Q. You're in transport; is that correct?  
 14 A. I'm in general population.  
 15 Q. You're in general population?  
 16 A. Yes, sir.  
 17 Q. Okay. My bad. How long have you been housed at the  
 18 Clements Unit, sir?  
 19 A. Since 2002.  
 20 Q. Prior to that, where were you housed, sir?  
 21 A. I was on the Robertson Unit.  
 22 Q. You've been in the penitentiary since 2000; is that  
 23 correct?  
 24 A. Yes, sir.  
 25 Q. For the felony offense of injury to a child; is that

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1 also correct?  
 2 A. Yes, sir.  
 3 Q. You're serving a 60-year sentence; is that also  
 4 correct?  
 5 A. Yes, sir.  
 6 Q. I want to take you back to January 29th of 2003.  
 7 You were living at the Clements Unit then, correct?  
 8 A. Yes, sir.  
 9 Q. Did you have a job at that time, sir?  
 10 A. Yes, sir.  
 11 Q. Where were you working?  
 12 A. The boot factory.  
 13 Q. How long had you been working at the boot factory at  
 14 that time?  
 15 A. I had been working there awhile. I don't know how  
 16 long.  
 17 Q. Now, had you always worked -- well, what shift were  
 18 you working?  
 19 A. I was working -- I was working, at the prior time  
 20 this take place, I was working second shift, but then that was  
 21 the first day, the day of the offense, that they put me on  
 22 first shift.  
 23 Q. Okay. Now, from being on second shift and then onto  
 24 the first shift, were you familiar with Stanley Wiley; I  
 25 believe y'all would refer to him as Mr. Wiley?

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1 A. Yes, sir.  
 2 Q. How long had you known Mr. Wiley?  
 3 A. He was my boss, my supervisor.  
 4 Q. For approximately how long?  
 5 A. Awhile.  
 6 Q. Describe Mr. Wiley for the jurors, please.  
 7 A. He was my supervisor.  
 8 Q. Did you also know a Travis Runnels --  
 9 A. Yes, sir.  
 10 Q. -- at the Clements Unit?  
 11 How did you know Mr. Runnels?  
 12 A. Stayed on the same section together, the same  
 13 building, stuff like that. Had interaction with each other in  
 14 the rec yard and stuff like that.  
 15 Q. So you had been around him for a while also; would  
 16 that be fair to say?  
 17 A. Yes, sir.  
 18 Q. Do you see him here in the courtroom today?  
 19 A. Yes, sir.  
 20 Q. Would you please point him out and describe the  
 21 clothing he's wearing?  
 22 A. Red shirt, yellow and black tie, black boots, look  
 23 like tan pants.  
 24 Q. Now, was he also working at the boot factory?  
 25 A. Yes, sir.

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1 Q. Now, specifically, on January 29th of 2003, before  
 2 you went to work, did you go anywhere?  
 3 A. Before I went to work?  
 4 Q. Uh-huh.  
 5 A. Well, when they called us out that morning --  
 6 Q. Yes, sir?  
 7 A. -- they called us to the multipurpose room where all  
 8 the workers go, and we wait to be transported to the boot  
 9 factory.  
 10 Q. What happened while you were in there, sir?  
 11 A. Travis Runnels, he told me to -- to go back to the  
 12 building, don't come to work today.  
 13 Q. At that point, did he give you any explanation as to  
 14 why?  
 15 A. He just said, "Don't go to work," and I -- I asked  
 16 him why. He just said, "Don't come." And I was like, "I'm  
 17 not fixing to get" --  
 18 MS. HAMILTON: Objection, it's nonresponsive,  
 19 Judge.  
 20 THE COURT: Sustained.  
 21 Q. (BY MR. SIMS) What did you say to him in response  
 22 to that, sir?  
 23 A. I told him that, "I'm not going to get a case, I'm  
 24 going to work." So he was like, you know, "All right," you  
 25 know. He was like, "All right."

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1 Q. Did you eventually make it to work that day, sir?  
2 A. Yes, sir.  
3 Q. What duties were you assigned to do that day?  
4 A. I was on the toe lace.  
5 MR. SIMS: May I approach, Your Honor?  
6 Q. (BY MR. SIMS) I'll show you what's been marked for  
7 identification purposes as State's No. 50, and are you able to  
8 recognize that, sir?  
9 A. Where's the front door? Front door, front door --  
10 (sotto voce)  
11 I'm not exactly sure. I'm not exactly sure. I  
12 can't really understand the board.  
13 Q. Okay. Well, if I turn it this way, does it help you  
14 out any? I should have turned it that way to begin with.  
15 A. This is the front door? (sotto voce)  
16 Are these the machines part, the machines that  
17 they have? I'm trying to understand where I'm at. I can't  
18 really understand the board.  
19 Q. So what was it you were assigned to do, sir?  
20 A. Toe lace.  
21 Q. What's that?  
22 A. Where a person -- the person before me -- it's like  
23 an assembly line, the person before me put a deal -- a boot  
24 hoof on the deal, and they send it to where I'm at, the guys  
25 where I'm at, and we put it in a machine and we lace the top

1 A. Yes, sir.  
2 Q. -- about what happened that day?  
3 MR. SIMS: May I approach, Your Honor?  
4 (Witness reading)  
5 Q. (BY MR. SIMS) Does that help refresh your memory  
6 some, sir?  
7 A. Yes, sir.  
8 Q. Okay. Did Mr. Runnels talk to you about anything  
9 else at that point, sir?  
10 A. He was just saying that he going to do something,  
11 but he really wasn't giving any details what he was going to  
12 do.  
13 Q. Did you hear any kind of arguments involving  
14 Mr. Wiley or Mr. Runnels that day?  
15 A. Them two particular with each other or just any type  
16 of argument, period?  
17 Q. Between each other.  
18 A. I haven't -- I didn't hear Mr. Wiley and Mr. Runnels  
19 arguing with each other.  
20 Q. When is the next time you remember seeing  
21 Mr. Runnels; where was he at?  
22 A. The next time, he -- well, I see him, he was  
23 cleaning a knife with a tissue or a cloth. He was cleaning a  
24 knife. He had a cut on his hand.  
25 Q. Did you see Mr. Runnels prior to that, sir?

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1 of it up, and then we pass it down.  
2 Q. Did you see this defendant, Mr. Runnels, out at the  
3 boot factory that morning?  
4 A. Yes, sir.  
5 Q. What was he doing the first time you remember seeing  
6 him?  
7 A. He was talking to me most of the time.  
8 Q. Do you recall what job duties he was assigned, if  
9 any?  
10 A. Janitor.  
11 Q. At some point that morning, after -- shortly after  
12 getting out there, did you have another conversation with  
13 Mr. Runnels?  
14 A. We was talking about -- we was talking about a book  
15 he had let me use.  
16 Q. I'm sorry?  
17 A. We was talking about a book he had let me look at  
18 and read.  
19 Q. Did he say anything else to you at that point, sir?  
20 A. Not that I can recall.  
21 Q. Did you give a statement in regards to what occurred  
22 that day?  
23 A. Yes, sir.  
24 Q. If you were to see that statement, would it -- would  
25 it help refresh your memory --

1 A. He was -- all I know is, he was behind me somewhere.  
2 He was behind me, or just motion in the area, walking back and  
3 forth. That's all I can remember, him being behind me.  
4 Q. Do you recall seeing Mr. Runnels do anything that  
5 day?  
6 A. I seen him -- I seen him walk by Wiley. Wiley was  
7 sitting like on the table. I was waiting on another rack to  
8 come, talking to a guy named Chris Fuller --  
9 THE REPORTER: Talking to a guy named what?  
10 A. Talking to another offender named Chris Fuller. And  
11 the next thing I know, I see Runnels go -- and Wiley's back is  
12 towards me, and Wiley turned around, I seen blood running out  
13 through his hands and stuff, and he started coming my way.  
14 Q. (BY MR. SIMS) Who started coming your way?  
15 A. Wiley, Officer Wiley.  
16 Q. Was there anyone else standing in the immediate  
17 vicinity of Mr. Runnels and Mr. Wiley at that time when you  
18 saw that?  
19 A. They was just right there by -- they was right there  
20 by each other by -- by the table, and we was a few feet away,  
21 me and some other guys.  
22 Q. Mr. Wiley starts towards you. What happens then?  
23 A. He started -- when he started towards me -- well, I  
24 didn't know what was going -- well, I didn't know exactly what  
25 was going on. I know he was holding his neck. And then when

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1 I started seeing blood, it was like -- it was like he was  
2 reaching towards me like for help, and I just moved out of the  
3 way and stuff like that.  
4 And then a guy named Christopher Fuller grabbed  
5 my arm, tell me to keep on working, keep on working, just keep  
6 on working. And I told him --  
7 Q. What did you -- okay, go ahead.  
8 A. I told him, "Man, folks getting their necks cut  
9 around here, no, I'm not fixing to keep on working," you know  
10 what I'm saying? So I grabbed --  
11 Q. What did you do then?  
12 A. I grabbed two of the -- the boot deals that they --  
13 they heavy, like if -- they real heavy. I grabbed two of  
14 those and I put my back up against the wall, because I really  
15 didn't know if it was like one person doing it or a lot of  
16 people, so I wanted to secure myself, so I put my back up  
17 against the wall.  
18 When I started seeing what was going on, I came  
19 on back -- I came up towards the front and sat in the middle  
20 of the table.  
21 Q. Mr. Wiley goes by you. Now let's turn your  
22 attention to Mr. Runnels. Do you start watching him some at  
23 that point?  
24 A. Yeah. He was washing -- he got a cloth or some  
25 tissue or a towel or something, I don't know exactly what it

1 you know, he start -- and he followed me and he --  
2 Q. Who is "he"?  
3 A. Chris Fuller and Mr. Runnels followed me. And then  
4 by that -- we took a couple of steps, like towards the back  
5 where the incident happened, but going back this way by the  
6 door (indicating), and then I think I seen the managers,  
7 Mr. Williams, and I think it was Captain Davis, come in and  
8 tell everybody, "Get on the floor, get on the floor," and  
9 stuff like that.  
10 Q. Everybody respond to that?  
11 A. Yes, sir.  
12 Q. Including yourself?  
13 A. Yes, sir.  
14 Q. Did you see Mr. Runnels do anything else after you  
15 saw him wiping the knife off?  
16 A. Put a jacket on, because -- just put a jacket on. I  
17 think it -- I don't know if some blood was on his clothes or  
18 not. I know he --  
19 MS. HAMILTON: Objection, that's nonresponsive.  
20 MR. YOW: Yeah.  
21 THE COURT: Sustained.  
22 Q. (BY MR. SIMS) What else, if anything, did you see  
23 him do?  
24 A. We all got on our knees and waited. And then they  
25 told us to stick our hands out. The officers all came in,

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1 was, he was washing the knife and stuff like that.  
2 Q. Okay. What happened then after that?  
3 A. Well, after that, after they got Mr. Wiley out,  
4 everybody ran him out, the officer got on the intercom and  
5 said, "Turn your knives in," and stuff like that. So after I  
6 seen everybody going and turning their knives in, I sat -- I  
7 sat in the middle in a chair, me and this guy was talking.  
8 Then Mr. Runnels came over and sat with us and stuff like  
9 that.  
10 Q. Sat down with you?  
11 A. Yes, sir.  
12 Q. What happened then?  
13 A. I asked him, you know, why -- you know, why he cut  
14 Mr. Wiley, why he would do that. He said, "It could have been  
15 any offender or inmate, you know, as long as they was white."  
16 Q. What happened after that?  
17 A. I said -- I told him if he die, that he going to --  
18 you know, that he could get a death -- you know, he could get  
19 the death penalty if he die, you know.  
20 Q. What happened then?  
21 A. He told me that a dead man can't talk.  
22 Q. After that, what happened, Mr. Yow?  
23 A. I got up, started -- because I seen everybody going  
24 every which a way, and I'm just trying to make sure -- you  
25 know, I'm trying to get away. I just got up, started moving,

1 told us to stick our hands out. They was looking at  
2 everybody's hands and stuff like that.  
3 Q. Okay. Did you see Mr. Runnels' hands?  
4 A. Yes, sir.  
5 Q. Tell us about those.  
6 A. I don't know exactly which hand it was. I know he  
7 had a cut because I gave him some tissue out of my pocket to  
8 put on his cut. That's all I can remember exactly about his  
9 hands.  
10 MR. SIMS: Pass the witness, Your Honor.  
11 CROSS-EXAMINATION  
12 BY MS. HAMILTON:  
13 Q. Mr. Yow, you -- did you say you're still in the  
14 Clements Unit?  
15 A. Yes, ma'am.  
16 Q. Okay. And how long did you know Travis?  
17 A. I'm not sure exactly how long I knew him.  
18 Q. A day, a week?  
19 A. Some months.  
20 Q. Several months?  
21 A. Several months. I'm not sure if it was quite a year  
22 yet, but some months.  
23 Q. Okay. How long had you known Mr. Wiley?  
24 A. Since I've been working in the boot factory, and I'm  
25 not sure how long I've been working in the boot factory.



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1 Q. Longer than you've known Mr. Runnels, though?  
2 A. Yes, ma'am.  
3 Q. Okay. In the time that you had known Travis, had  
4 you observed him to be in fights with other people?  
5 A. Have I seen him fight anybody?  
6 Q. Yes.  
7 A. No, ma'am.  
8 Q. Did he seem to get along with the people that you  
9 saw him with? When you saw him, did he seem to be getting  
10 along with people?  
11 A. Inmate-wise, as far as -- he -- he wasn't getting in  
12 any physical conflicts with anybody, but mentally, he was --  
13 Q. Mentally, he was?  
14 A. -- having conflict.  
15 Q. Okay. Now, in your statement, you said that -- or  
16 you -- you don't say that Mr. Runnels and Mr. Wiley were  
17 arguing?  
18 A. No, ma'am, I don't say that.  
19 Q. But you do say that Mr. Wiley was arguing with  
20 someone?  
21 A. Yes, I did say that.  
22 Q. Who was he arguing with?  
23 A. I said -- I said an inmate was arguing with  
24 Mr. Wiley and another officer, if I'm not mistaken.  
25 Q. Okay.

1 (sic) When things happen in the penitentiary, you put your  
2 wall against the back (sic) until you know what's going on.  
3 Q. Okay. And he was trying to prevent you from doing  
4 that?  
5 A. Yes. It was like -- when he grabbed me, it was  
6 like, you know, he probably knew what was going on. He -- he  
7 was telling me, "Just keep working," because he seen the  
8 officer grab me -- trying to grab for me. He was like, "Keep  
9 working." But I didn't know exactly was it more than one  
10 person or not, so I'm like trying to get away.  
11 Q. Okay. After this occurred, you said that  
12 Mr. Runnels put a jacket on?  
13 A. No, I said -- no, I said Mr. Runnels put a jacket  
14 on, like when we was headed, like -- just a little bit before  
15 the officers came in.  
16 Q. Yes, sir.  
17 A. After I walked away.  
18 Q. After Mr. Wiley had left the building?  
19 A. After the other two officers was getting -- about a  
20 second before they walked in.  
21 Q. And Mr. Runnels put a jacket on?  
22 A. Yes, ma'am.  
23 Q. And then did he comply with what he was asked to do?  
24 A. Yeah, he applied -- yeah, he complied.  
25 MS. HAMILTON: I'll pass the witness, Judge.

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1 A. But not Travis Runnels. It was another inmate, I  
2 don't know his name.  
3 Q. And how long before this incident -- before this did  
4 you see Mr. Wiley arguing with the other inmate?  
5 A. Excuse me, I couldn't hear you.  
6 Q. I'm sorry. How long before this happened did you  
7 see the inmate arguing with Mr. Wiley?  
8 A. This particular -- it had been about, I guess five  
9 or ten minutes, approximately five or ten minutes, because I  
10 thought -- I thought the other inmate was going to fight one  
11 of the officers that was arguing.  
12 Q. And why did you think that?  
13 A. Because he was cursing and stuff, the inmate was  
14 cursing and saying all kinds of stuff.  
15 Q. Okay. And -- but you didn't see Mr. Runnels doing  
16 that?  
17 A. No, ma'am.  
18 Q. Okay. You said that Chris Fuller grabbed your arm?  
19 A. Yes, ma'am.  
20 Q. Okay. And what were -- when he grabbed your arm,  
21 what were you trying to do?  
22 A. "Let me go." I don't want him holding me.  
23 Q. Okay. What -- where were you going when he grabbed  
24 your arm?  
25 A. I was going to get -- put my wall against the back.

1 MR. SIMS: No other questions, Your Honor.  
2 THE COURT: Okay, Mr. Yow, you can step down.  
3 Thank you very much, sir.  
4 MR. SIMS: May we approach?  
5 THE COURT: Sure.  
6 (At the bench, on the record)  
7 MR. SIMS: That's all the witnesses we have for  
8 the guilt/innocence stuff. The rest of it's going to start  
9 the punishment stuff, and we've got them lined up to be here  
10 in the morning. I mean, with what they did --  
11 THE COURT: He's out of witnesses for today.  
12 MR. DURHAM: Okay. That's all right. I need  
13 to get my afternoon nap in.  
14 (Open court)  
15 THE COURT: Okay, folks, this is one of those  
16 times where, regardless of the planning we've done, we've run  
17 short of witnesses for the day, so we're going to break early  
18 today. I'll see you at nine o'clock in the morning.  
19 Please remember what I told you about  
20 television, radio, and the newspapers, or allowing anyone to  
21 approach you and discuss anything with you.  
22 I'll see you at 9:00 in the morning.  
23 (10/26/05 proceedings adjourned)  
24  
25

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THE STATE OF TEXAS )

COUNTY OF POTTER )

I, JILL ZIMMER, Official Court Reporter in and for the  
320th District Court of Potter County, State of Texas, do  
hereby certify that the above and foregoing contains a true  
and correct transcription of the proceedings in the above-  
styled and numbered cause, all of which occurred in open court  
or in chambers and were reported by me.

I FURTHER CERTIFY that this transcription of the record  
of the proceedings truly and correctly reflects exhibits, if  
any, offered by the respective parties.

WITNESS my hand this the \_\_\_\_ day of  
\_\_\_\_\_, 2006.

JILL ZIMMER

Official Court Reporter

Certificate Number 533

Expiration Date: 12-31-2006

Potter County Courts Building

Amarillo, Texas 79101

(806) 379-2372

THE STATE OF TEXAS                    )  
COUNTY OF POTTER                    )

I, JILL ZIMMER, Official Court Reporter in and for the 320th District Court of Potter County, State of Texas, do hereby certify that the above and foregoing contains a true and correct transcription of the proceedings in the above-styled and numbered cause, all of which occurred in open court or in chambers and were reported by me.

I FURTHER CERTIFY that this transcription of the record of the proceedings truly and correctly reflects exhibits, if any, offered by the respective parties.

WITNESS my hand this the 25<sup>th</sup> day of

April, 2006.



JILL ZIMMER  
Official Court Reporter  
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